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Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Burundi, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the text of this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

Letter dated 27 December 2001 from the Permanent Representative of Burundi to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit to you the report (see enclosure) of the Government of Burundi prepared pursuant to paragraph 6 of Security Council resolution 1373 (2001).

You will also find appended hereto two preambles and two draft presidential decrees (see appendix) which are shortly to be signed by the country's highest authorities:

- Draft decree establishing a National Commission to Combat International Terrorism;
- Preamble to this decree;
- Draft decree prohibiting the financing of terrorism and the facilitation of acts of international terrorism;
- Preamble to this decree.

(*Signed*) Marc **Nteturuye**
Ambassador
Permanent Representative

Enclosure

Report of the Government of the Republic of Burundi, submitted to the Security Council Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Like the other members of the international community, Burundi was deeply shocked by the tragic attacks of 11 September 2001. It welcomed the Security Council's swift reaction in adopting resolution 1373 (2001) in order to prevent such barbaric acts and atrocities from ever happening again and to ensure that their perpetrators are severely punished.

Burundi is firmly resolved to cooperate with the United Nations, its Member States and, in particular, the Security Council Counter-Terrorism Committee in combating international terrorism by fully implementing resolution 1373 (2001) and all other resolutions and recommendations against international terrorism.

To this end, Burundi has already taken the measures which are described in this report following the questionnaire prepared as guidance for the submission of reports to the Security Council Committee.

Paragraph 1

Subparagraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) and (d)?

A draft decree prohibiting the financing of terrorism and the facilitation of acts of international terrorism has been drafted and will be considered by the Council of Ministers at its next meeting, on its return from the end-of-year recess. This draft constitutes a provisional statutory measure pending the adoption of a counter-terrorism law, the constitutional process for the adoption of laws usually being very lengthy.

In addition to this draft decree, the Burundi Penal Code (Decree Law No. 1/006 of 4 April 1981) already prohibits the activities of criminal gangs organized for the purpose of killing, looting or destroying public or private property, socio-economic infrastructure, the environment, cultural property, etc., acts which are similar to terrorist acts without actually being qualified as such (articles 417, 419 et seq. of the Penal Code, Book II).

Subparagraph (b) — What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The activities constituting offences under the aforementioned draft decree are as follows:

1. Organization of terrorist groups (article 2, paragraph 1, and articles 3, 4 and 5 of the draft decree);

2. Collection of funds and other financial assets with the intention that they should be used to prepare or carry out terrorist acts (article 2, paragraph 3, articles 3, 4 and 5 of the draft decree);

3. Provision of funds or financial assets to any of the following persons or entities:

(a) Any person who may, with good reason, be suspected of preparing or carrying out an offence referred to in articles 1 and 2 of the aforementioned draft decree;

(b) Any entity owned by the suspect or over which he or she has significant influence;

(c) Any person or entity acting on behalf of or at the direction of the suspect or entity referred to in paragraph (b) above (articles 3, 4 and 5 of the draft decree).

All these categories of offences are punishable by penal servitude for life. Analogous offences under the Penal Code are punishable by the death penalty (articles 417, 419 et seq. of the Penal Code, Book II).

Subparagraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

The draft decree provides, in article 4, paragraphs 1 and 2, that:

> "When a person is suspected, with good reason, of preparing or carrying out an act referred to in articles 1 and 2, the Public Prosecutor's Office shall take the necessary measures to freeze without delay all property belonging to:
>
> (a) The suspect;
>
> (b) Any entity owned by the suspect or over which he or she has significant influence; or
>
> (c) Any person acting on behalf of or at the direction of the suspect or entity referred to in paragraph (b) above."

Any financial institution which suspects that a transaction is linked to an act referred to in articles 1 or 2 automatically transmits all information likely to expose this offence to the Public Prosecutor's Office. The financial institution must, at the request of the Public Prosecutor's Office, provide all useful information concerning the suspected offence. It does not inform any client or third person that such information has been transmitted. The officials of the financial institution are also subject to the obligation of confidentiality.

Examples of measures taken by the Government

The Government has already conducted checks in the country's financial and banking institutions with a view to identifying individuals, entities and bank accounts indicated in the new consolidated list prepared pursuant to Security Council resolutions 1267 (1999) and 1333 (2000).

Thus far, the Government has uncovered no evidence of those individuals and entities or of bank accounts belonging to the networks of the Taliban, Osama bin Laden or al-Qa'idah.

Subparagraph (d) — What measures exist to prohibit the activities listed in this subparagraph?

The measures taken to prohibit terrorist activities are as follows:

- Establishment of a National Commission to Combat International Terrorism under the chairmanship of the Minister of the Interior and Public Security;
- Checks conducted in the immigration services and financial institutions to establish the existence of individuals, entities, assets or property belonging to terrorist networks;
- Strengthening of security measures at airports and borders;
- Institution of systematic searches of baggage and passengers at airports;
- Designation of the Focal Point for the Security Council Committee.

Paragraph 2

Subparagraph (a) — What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

The Government has prepared a draft decree prohibiting the financing and facilitation of international terrorism in order to give effect to this subparagraph (articles 2, 3, 4 and 5 of the draft decree). In addition, the Penal Code already prohibits these offences. The draft decree will subsequently be elevated to the status of a law, once the lengthy constitutional process for the adoption of laws has been completed.

In prohibiting recruitment to terrorist groups and the supply of weapons to terrorists, the draft decree makes perpetrators liable to penal servitude for life (articles 3, 4 and 5). In addition, the Penal Code prohibits the formation of armed gangs (articles 417, 419 et seq. of the Penal Code, Book II). Terrorist groups may in fact begin organizing as armed gangs.

The import, acquisition and bearing of firearms are regulated by the Decree of 21 February 1950 enacting rules governing firearms and ammunition and general enforcement measures.

Subparagraph (b) — What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

The Office of the Superintendent of the Criminal Investigation Department of the Public Prosecutor's Office is cooperating with the International Criminal Police Organization (Interpol) in the exchange of information.

The National Commission to Combat International Terrorism is responsible for gathering data and information and bringing them to the attention of the Government and the Focal Point, who exchanges them with the Security Council Committee and other countries.

Subparagraph (d) — What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Burundi strictly observes the Charter of the United Nations and other rules of international law categorically prohibiting the use of the territory of one State as a base for terrorist groups that are destabilizing the territory of another State.

There are also agreements on mutual judicial assistance and extradition between Burundi and its neighbours to ensure that terrorist criminals do not evade punishment simply by moving to a neighbouring country (for instance, the Judicial Convention between Burundi, the Democratic Republic of the Congo and Rwanda, signed on 21 June 1975; the Convention between Burundi and the United Republic of Tanzania on Extradition and Mutual Judicial Assistance in Criminal Matters, which was signed on 27 April 1988 but has yet to be ratified; draft conventions on judicial cooperation and extradition between Burundi and the Russian Federation, Burundi and Uganda, Burundi and Zambia, and Burundi and Namibia).

Subparagraph (e) — What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

The Burundi Penal Code establishes very severe penalties for participation in armed gangs, which may in fact turn out to be terrorist groups (articles 417, 419 et seq. of the Penal Code, Book II). Its provisions are fairly broad in scope. They prohibit all acts that constitute offences against the person, from murder to kidnapping to assassination. Clearly, appeal judges will regard acts categorized as "terrorist" acts as particularly aggravating circumstances.

The draft decree prohibiting the financing of terrorism and the facilitation of terrorist acts institutes the punishment of penal servitude for life in respect of terrorist acts.

Subparagraph (f) — What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

The Government of Burundi is a member of Interpol. Accordingly, there is within the Office of the Superintendent of the Criminal Investigation Department of the Public Prosecutor's Office a unit responsible for gathering and exchanging information with Interpol.

Burundi also cooperates with other States through the following mechanisms, inter alia:

- United Nations organs, in particular the Security Council through the Counter-Terrorism Committee;
- The Organization of African Unity (OAU) Mechanism for Conflict Prevention, Management and Resolution in Africa;
- The United Nations Standing Advisory Committee on Security Questions in Central Africa;

- The United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI).

Subparagraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery?

There is a governmental organ, the Border and Aliens Police, which was established by Decree-Law No. 100/087 of 13 June 1997. This organ, which is under the authority of the Minister of the Interior and Public Security, is responsible for monitoring cross-border movements into and out of the country. Naturally, it cooperates with the other customs and security services.

The monitoring of cross-border movements, the procedures for the issuance of identity papers and travel documents and measures to prevent their forgery are governed by the following laws and regulations:

- Decree-Law No. 1/007 of 20 March 1989 regulating the access of aliens to the territory of Burundi, their stay and establishment therein and their removal;
- Decree No. 100/026 of 30 January 1996 specifying measures for the enforcement of the Act of 1 August 1962 on the issuance of passports and equivalent documents;
- Ministerial Order No. 530/626 of 23 August 2000 specifying measures for the implementation of Decree No. 100/026 of 30 January 1996 on the issuance of passports and equivalent documents;
- Ministerial Order No. 530/038/96 of 1 February 1996 establishing the tariffs for passports and equivalent documents, travel documents, visas and identity cards for aliens;
- Ministerial Order No. 530/166 of 10 July 1989 establishing measures for the enforcement of Decree-Law No. 1/007 of 20 March 1989 regulating the access of aliens to the territory of Burundi, their stay and establishment therein and their removal.

Moreover, the Penal Code provides severe penalties for false entries in certain administrative documents, including the forgery of passports and other travel documents (articles 257 et seq. of the Penal Code, Book II).

Paragraph 3

Subparagraph (a) — What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Burundi is already cooperating in the exchange of operational information through Interpol. The establishment of a National Commission to Combat International Terrorism will strengthen this exchange of information.

Subparagraphs (b) and (c) — What steps have been taken to exchange information and to cooperate in the areas indicated in these subparagraphs?

Besides the mechanisms listed under paragraph 2, subparagraph (f), Burundi has signed the following international legal instruments concerning international terrorism through which it is able to cooperate and exchange information with other States:

- International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999. Burundi signed the Convention on 13 November 2001;
- Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism. Burundi signed the Convention on 14 July 1999;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, concluded at Montreal on 24 February 1988. Burundi signed the Protocol on 6 March 1992 and ratified it on 6 June 1998;
- International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997. Burundi signed the Convention on 4 March 1998;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971. Burundi signed the Convention on 6 March 1972 and ratified it on 6 June 1998;
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970. Burundi signed the Convention on 17 February 1971 and ratified it on 6 June 1998;
- Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963. Burundi signed the Convention on 14 July 1971 and deposited its instrument of ratification with ICAO on 12 October 1971;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations in New York on 14 December 1973. Burundi acceded to the Convention on 17 December 1980.

In the context of administrative and judicial cooperation, Burundi has already signed a number of judicial assistance agreements (on extradition and judicial cooperation) with neighbouring countries (the Democratic Republic of the Congo, Rwanda, the United Republic of Tanzania) and plans to sign other such agreements with, inter alia, the Russian Federation, Uganda and Zambia.

Subparagraph (d) — What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Burundi has already signed the International Convention for the Suppression of the Financing of Terrorism. It plans to accede to the other conventions which are no longer open for signature. The process of ratifying the International Convention for the Suppression of the Financing of Terrorism and of acceding to the other conventions relating to terrorism has already been initiated.

Subparagraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

The aforementioned draft decree is aimed specifically at the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

Other laws will be adopted, but they require a longer constitutional process for adoption.

Subparagraph (f) — What legislation, procedures and mechanisms are in place for ensuring that asylum-seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

The legislation and mechanisms in place are those referred to in the reply to paragraph 2, subparagraph (g).

Subparagraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists.

The Government of Burundi has increased its vigilance in the implementation of immigration laws and regulations. It will cooperate with the Office of the United Nations High Commissioner for Refugees in order to ensure, before granting refugee status, that applicants have not organized or facilitated the commission of acts of terrorism or participated in such acts.

Moreover, article 1, paragraph 2, of the aforementioned draft decree prohibits claims based on political motivation.

3.3. States may include in their reports additional relevant information, including information on the issues covered by paragraph 4 of resolution 1373 (2001). They may also include general observations on the implementation of the resolution and outline any problems encountered.

The fight against international terrorism is closely linked to transnational organized crime, including drug trafficking and money-laundering. Burundi is joining in efforts undertaken by the international community to combat all these scourges.

In order to do this, Burundi has established a drug control unit within the Office of the Superintendent of the Criminal Investigation Department of the Public Prosecutor's Office. It has created a financial and economic branch of the police. Moreover, it is participating in international forums on money-laundering, transnational organized crime and trafficking in arms and drugs. It is also a member of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI).

Burundi has signed the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

4. Assistance

4.1. States may, if they wish, identify in their reports or separately inform the Committee of areas in which they require or would benefit from technical assistance or additional guidance in aspects covered by resolution 1373 (2001) or in preparing reports for the Committee under paragraph 6 of that resolution. The Committee will explore the capacity of States and international and regional organizations to offer such assistance. It intends to collate information on possible sources of assistance and will give careful consideration to how it can facilitate the provision of assistance in response to any such requests.

The Government of Burundi would like to receive comments from the Security Council Counter-Terrorism Committee and from other countries on its report and on its draft decree prohibiting the financing and facilitation of acts of terrorism. It would also like to be able to follow all the work on the steps to be taken to counter terrorism and to be informed of the efforts made by other countries.

Given its lack of know-how and skills in this area and its limited means, the Government will obviously encounter difficulties in implementing the resolutions and conventions against terrorism, especially in preparing national implementing legislation and in drafting reports thereon.

Bujumbura, 26 December 2001

Appendice

Décret No / du décembre 2001 portant création de la Commission nationale chargée de la lutte contre le terrorisme international

Exposé de motifs

Dans l'esprit de la mise en application de la résolution 1373 (2001) du 28 septembre 2001 et suite à la décision du Conseil des Ministres de mettre sur pied une Commission Nationale chargée de la lutte contre le terrorisme international dont le Ministre de l'Intérieur et de la Sécurité Publique a été désigné comme Président, il est apparu nécessaire et urgent de créer cette commission.

Le présent projet de Décret a donc pour objet de mettre sur pied ladite commisaion et de préciser les missions qui lui sont assignées et qui se résument comme suit :

- Suivre, examiner, enquêter sur les actes de terrorisme ;
- Formuler des propositions d'adaptation de la législation nationale aux traités internationaux contre le terrorisme et s'assurer de leur mise en application ;
- Assurer la mise en application des résolutions de l'Assemblée Générale des Nations Unies et du Conseil de Sécurité sur le terrorisme ;
- Elaborer le rapport du Gouvernement sur la mise en application de ces résolutions.

Il est urgent que cette Commission soit mise sur pied car elle doit s'atteler sans plus tarder à préparer le premier rapport de mise en application par le Gouvernement de la Résolution 1373 (2001) qui doit être soumis au Comité du Conseil de Sécurité avant le 27 décembre 2001. La Commission est à composition multisectorielle.

Fait à Bujumbura, le 20 décembre 2001.

DECRET N° / DU /12/2001 PORTANT CREATION D'UNE COMMISSION NATIONALE DE LUTTE CONTRE LE TERRORISME INTERNATIONAL

LE PRESIDENT DE LA REPUBLIQUE,

Vu la Constitution de Transition de la République du Burundi ;

Vu la loi n° 1/017 du 1er Décembre 2000 portant adoption de l'Accord d'Arusha pour la Paix et la Réconciliation au Burundi ;

Vu le Décret n°...../ du...../12/2001 portant interdiction du financement du terrorisme et de la facilitation des actes de terrorisme international ;

Sur proposition du Ministre de l'Intérieur et de la Sécurité Publique ;

Après délibération du Conseil des Ministres ;

DECRETE :

Article 1

Il est créé une Commission Nationale de lutte contre le terrorisme international ci-après dénommée « la Commission ».

Article 2

La Commission est chargée des missions ci-après :

- Suivre et examiner tous renseignements, informations en rapport avec les actes de terrorisme international ;
- Enquêter sur tous les cas de financements des actes terroristes, de recrutements de groupes terroristes, d'approvisionnement en armes des terroristes ;
- Communiquer au Ministère Public des informations relatives aux actes terroristes ;
- Formuler des propositions d'adaptation de la législation nationale aux normes internationales relatives aux mécanismes visant à lutter contre le terrorisme international ;
- Assurer la mise en application des résolutions de l'Assemblée Générale des Nations Unies et du Conseil de sécurité relatives à la lutte contre le terrorisme international ;
- Etablir un rapport annuel sur les mécanismes prises par le Gouvernement contre le terrorisme international ;
- Constituer une banque de données sur les actes de terrorisme, les individus, les entités et les réseaux de terrorisme.

Article 3.

La Commission est composée des membres provenant des différents Ministères et organes gouvernementaux. Ces derniers sont nommés par Arrêté du Vice-Président de la République sur proposition du Ministre de l'Intérieur et de la Sécurité Publique.

Article 4

La Commission élabore son règlement d'ordre intérieur.

Article 5

Les moyens de fonctionnement de la Commission sont pourvus par le Gouvernement.

Article 6

Le Ministre de l'Intérieur et de la Sécurité Publique est chargé de l'exécution du présent Décret qui entre en vigueur le jour de sa signature.

Fait à Bujumbura, le / /2001.

Pierre BUYOYA.

PAR LE PRESIDENT DE LA REPUBLIQUE :

LE VICE-PRESIDENT

Domitien NDAYIZEYE.

LE MINISTERE DE L'INTERIEUR
ET DE LA SECURITE PUBLIQUE

Salvator NTIHABOSE.

VU ET SCELLE DU SCEAU DE LA REPUBLIQUE,
LE MINISTRE DE LA JUSTICE ET GARDE DES SCEAUX,

FULGENCE DWIMA-BAKANA.

DECRET N°.....DU .....DECEMBRE 2001 PORTANT INTERDICTION DU FINANCEMENT DU TERRORISME ET DE LA FACILITATION DES ACTES DE TERRORISME INTERNATIONAL.

EXPOSE DES MOTIFS.

Suite aux attaques du 11 septembre 2001 à New York, à Washington et en Pennsylvanie, le Conseil de Sécurité des Nations Unies a voté la résolution 1373 (2001) en date du 28 septembre 2001 pour prévenir et réprimer le financement des actes de terrorisme.

Cette résolution demande à tous les Etats, notamment :

- de s'abstenir d'apporter quelque forme d'appui aux entités ou personnes impliquées dans les actes de terrorisme, notamment en réprimant le recrutement de membres de groupes terroristes et en mettant fin à l'approvisionnement en armes des terroristes ;

- de prendre des mesures pour :

  - empêcher que des actes de terrorisme soient commis ;
  - refuser asile à des terroristes ;
  - empêcher que leurs territoires soient utilisés à des fins terroristes ;
  - traduire en justice toute personne qui prend part à ces actes ;
  - se prêter assistance avec les autres pays dans les enquêtes criminelles et autres procédures ;
  - échanger des informations opérationnelles et renseignements ;
  - coopérer dans le cadre des accords bilatéraux et multilatéraux afin de prévenir et réprimer les actes de terrorisme ;
  - signer et ratifier les conventions relatives au terrorisme ; et particulièrement
  - prendre des mesures administratives, réglementaires et législatives pour prévenir et réprimer les actes de terrorisme.

Le présent projet de Décret portant interdiction du financement du terrorisme et de la facilitation des actes terroristes vise (en attendant l'adoption d'une loi appropriée dont le processus constitutionnel est habituellement très long) à mettre en application la résolution 1373 (2001) ci-dessus.

Il y a un impératif que ce décret soit signé et promulgué avant le 27 décembre 2001, date à laquelle la résolution 1373 (2001) oblige les Etats à faire rapport au Comité du Conseil de Sécurité contre le terrorisme sur les mesures prises pour appliquer ladite résolution, y compris les mesures administratives, réglementaires et législatives.

Le Gouvernement dans son rapport qu'il doit présenter au comité du conseil avant le 27 décembre 2001 doit donc indiquer qu'il a déjà promulgué un décret pour la prévention et la répression des actes de terrorisme.

C'est dans cet esprit que le projet de Décret a été préparé et devrait retenir l'attention du Gouvernement quant à l'urgence de sa promulgation.

Le projet de Décret donne la définition des actes terroristes tels que définis dans les instruments juridiques internationaux que le Burundi a signé, notamment la Convention de l'OUA sur la prévention et la lutte contre le terrorisme (signée par le Burundi le 14/07/1999) et la Convention internationale pour la répression du financement du terrorisme (signée par le Burundi le 13/11/2001).

Le projet de Décret érige en infraction le financement du terrorisme et la participation à des actes de terrorisme, punissables de peines pouvant aller jusqu'à l'emprisonnement à perpétuité.

La peine de mort n'a pas été retenue à dessein car le présent projet de Décret une fois promulgué, devra être transmis au Comité du Conseil de Sécurité, un organe de la communauté internationale où la peine de mort n'est pas accepté.

Le projet de Décret est sans préjudice au Décret-Loi portant Réforme du Code Pénal du Burundi, qui reste d'application.

Fait à Bujumbura, le 20 décembre 2001.

DECRET N°...../.....DU ...../12/2001 PORTANT INTERDICTION DU FINANCEMENT DU TERRORISME ET DE LA FACILITATION DES ACTES DE TERRORISME INTERNATIONAL.

Le Président de la République,

Vu la Constitution de Transition de la République du Burundi ;

Vu la loi n°1/017 du 1er décembre 200 portant adoption de l'Accord d'Arusha pour la paix et la réconciliation au Burundi ;

Vu le Décret-Loi n°1/86 du 04 avril 1981 portant Réforme du Code Pénal de la République du Burundi ;

Vu la loi n°1/015 du 20 juillet 1999 portant Réforme du Code de Procédure Pénale de la République du Burundi ;

Vu la Loi n°1/004 du 14 janvier 1987 portant Code de l'Organisation et de la Compétence Judiciaire de la République du Burundi ;

Après délibération du Conseil des Ministres,

DECRETE :

Article premier :

Aux fins du présent Décret :

L'expression « acte terroriste » désigne :

a) tout acte ou menace d'acte en violation de la loi susceptible de mettre en danger la vie, l'intégrité physique, les libertés d'une personne ou d'un groupe de personnes, qui occasionne ou peut occasionner des dommages aux biens privés ou publics, aux ressources naturelles, à l'environnement ou au patrimoine culturel, et commis dans l'intention :

(i) d'intimider, provoquer une situation de terreur, forcer, exercer des pressions ou amener tout Gouvernement, organisme, institution, population ou groupe de celle-ci, à engager toute initiative ou à s'en abstenir, à adopter, à renoncer à une position particulière ou à agir selon certains principes ; ou

(ii) de perturber le fonctionnement normal des services publics, la prestation de services essentiels aux populations ou de créer une situation de crise au sein des populations ; ou

(iii) de créer une insurrection générale dans un Etat.

b) toute promotion, financement, contribution, ordre, aide, incitation, encouragement, tentative, menace, conspiration, organisation ou équipement de toute personne avec l'intention de commettre tout acte mentionné au paragraphe a(i) à (iii) ; et

c) un acte qui constitue une infraction au regard et selon la définition donnée dans les traités relatifs au terrorisme;

d) tout autre acte destiné à tuer ou blesser grièvement un civil, ou toute autre personne qui ne participe pas directement aux hostilités dans une situation de conflit armé, lorsque, par sa nature ou son contexte, cet acte vise à intimider une population ou à contraindre un gouvernement ou une organisation internationale à accomplir ou à s'abstenir d'accomplir un acte quelconque.

Les considérations d'ordre politique, philosophique, idéologique, racial, ethnique, religieux ou autres ne peuvent justifier les actes terroristes visés ci-dessus.

Article 2

Sans préjudice des dispositions du Code Pénal, sera puni d'une peine d'emprisonnement à perpétuité quiconque se sera mis à la tête des bandes terroristes ou y aura exercé une fonction ou un commandement quelconque.

Les individus faisant partie des bandes visées à l'alinéa précédent sans y exercer aucun commandement ni emploi, seront punis d'une servitude pénale de 15 à 20 ans.

Quiconque, agissant intentionnellement, met à disposition, collecte ou obtient autrement des fonds ou autres avoirs financiers dans l'intention que ceux-ci soient utilisés ou sachant qu'ils seront en tout ou en partie utilisés en vue de préparer ou de perpétrer un acte de terrorisme sera également puni d'une servitude pénale à perpétuité .

Ces actes constituent également une infraction pénale en République du Burundi lorsqu'ils sont commis à l'étranger par un ressortissant burundais ou par un étranger qui réside régulièrement au Burundi.

Article 3

Sans préjudice des dispositions du Code Pénal, encourt une peine d'emprisonnement à vie quiconque met intentionnellement des fonds, avoirs ou services financiers à la disposition de l'une quelconque des personnes ou entités ci-après :

a) toute personne qui pour des raisons valables peut être soupçonnée de préparer ou de perpétrer une infraction visée aux articles premier ou 2 ;

b) toute entité appartenant au suspect ou sur laquelle celui-ci exerce une influence non négligeable ; ou

c) toute personne ou entité agissant au nom ou sur instruction du suspect ou de l'entité visée à l'alinéa b).

Le paragraphe 2 de l'article 2 s'applique mutatis mutandis.

Article 4

Lorsque pour des raisons valables, une personne est soupçonnée de préparer ou de perpétrer un acte visé aux articles premier ou 2, le Ministère Public prend les mesures requises en vue de geler sans retard tous biens, comptes, fonds, avoirs et titres appartenant :

a. au suspect ;

b. à toute entité appartenant au suspect ou sur laquelle celui-ci exerce une influence non négligeable ; ou

c. à toute personne ou entité agissant au nom ou sur instruction du suspect ou de l'entité visée à l'alinéa b)

Toute institution financière qui soupçonne qu'une transaction est liée à un acte visé aux articles premier ou 2, transmet d'office toutes informations de nature à dénoncer cette infraction au Ministère Public. L'institution financière doit, à la requête du Ministère Public, fournir toutes informations utiles concernant l'infraction présumée. Elle n'informe aucun client ni tiers que ces informations ont été transmises. L'obligation de discrétion s'impose également aux responsables de l'institution financière.

Article 5

Sans Préjudice des dispositions du Code Pénal, quiconque, intentionnellement et en connaissance de cause, facilite, promeut, aide, donne asile, héberge, recrute, approvisionne en moyens ou en armes, délivre ou contrefait des documents d'identité ou de voyage des individus, groupes, entités ou associations de terroristes, est puni d'une servitude pénale à perpétuité.

Article 6

Toute disposition antérieure qui n'est pas contraire au présent Décret reste d'application.

Article 7

Le Ministre de l'Intérieur et de la Sécurité Publique est chargé de l'exécution du présent Décret qui entre en vigueur le jour de sa signature.

Fait à Bujumbura, le .....décembre 2001.

PIERRE BUYOYA

PAR LE PRESIDENT DE LA REPUBLIQUE

LE VICE-PRESIDENT DE LA REPUBLIQUE

DOMITIEN NDAYIZEYE.

LE MINISTRE DE L'INTERIEUR
ET DE LA SECURITE PUBLIQUE

SALVATOR NTIHABOSE.

VU ET SCELLE DU SCEAU DE LA REPUBLIQUE

LE MINISTRE DE LA JUSTICE
ET GARDE DES SCEAUX

FULGENCE DWIMA-BAKANA.

United Nations S/2001/1323

Security Council

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English
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Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Libyan Arab Jamahiriya, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman of the Counter-Terrorism Committee

02-21726 (E) 120302 130302

Annex

Note verbale dated 26 December 2001 from the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: Arabic]

The Permanent Mission of the Libyan Arab Jamahiriya to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to transmit to it a report on the steps taken by the Libyan Arab Jamahiriya to implement the same resolution, submitted pursuant to its paragraph 6.

In transmitting the report requested, the Permanent Mission would like to stress:

1. That the Jamahiriya has voiced its unequivocal condemnation of terrorism in all its forms and manifestations on many occasions, most recently when it denounced the terrorist attacks committed against the United States of America on 11 September 2001 as criminal acts and acknowledged the right of the United States to defend itself;

2. That the Jamahiriya has been one of the victims of terrorism and that, in 1992, it urged that a special session of the General Assembly should be convened to consider international terrorism and adopt a clear definition of the phenomenon that takes account of the right of peoples to defend themselves and to exercise self-determination in accordance with international law and custom;

3. That the Libyan Arab Jamahiriya stands ready to cooperate in all international efforts to combat terrorism under the auspices of the United Nations and that it is, in this connection, a party to many of the counter-terrorism conventions and protocols.

The Permanent Mission of the Libyan Arab Jamahiriya to the United Nations takes this opportunity to convey to the Committee the assurances of its highest consideration.

Enclosure

Measures taken by the Libyan Arab Jamahiriya to combat terrorism

I. General measures

1. By its decision 380/1984 of 6 June 1984, the General People's Committee of the Libyan Arab Jamahiriya established a counter-terrorism bureau under the authority of the Secretary of the General People's Committee for Foreign Liaison and International Cooperation. The bureau was assigned the tasks of: addressing terrorist activities of all kinds and the means to counter them; coordinating action by all relevant agencies to solve the problems caused by international terrorism; monitoring the positions taken by States and international and regional organizations with respect to terrorist practices; and investigating the possibility of cooperating, consulting and exchanging information with other countries so that all might coordinate their positions and concentrate their efforts to confront and combat terrorism.

2. In a letter dated 17 January 1992 addressed to the Secretary-General of the United Nations, the Libyan Arab Jamahiriya called for the convening of a special session of the General Assembly devoted to the problem of terrorism and to defining it and identifying ways of solving it.

3. The Jamahiriya drew the world's attention to the involvement of the al-Qa'idah organization in acts of terrorism and urged that its members, headed by Usama bin Laden, should be sought and detained for having engaged in terrorist acts against foreigners residing in Libya. It circulated an international notice to this effect in May 1998 and was thus the first country in the world to make the leader and members of this organization the subject of an international red notice.

4. Pursuant to General People's Committee approval 6806 of 3 November 2001, a national committee was formed consisting of a number of secretaries (the equivalent of ministers in other systems) and chiefs of sectors and agencies relevant to counter-terrorism in order to give effect to Security Council resolution 1373 (2001) and present the response of the Libyan Arab Jamahiriya, in accordance with the provisions of the resolution, concerning the steps it had taken or intended to take for the suppression of terrorism.

5. The General People's Committee for Foreign Liaison and International Cooperation approached all of the sectors and agencies relevant to the implementation of Security Council resolution 1373 (2001) concerning counter-terrorism (such as the secretariat of the General People's Committee for Justice and Public Security, the secretariat of the General People's Committee for Finance, and the Central Bank of Libya), with regard to the substance of the resolution and stressed the importance of commitment to the implementation of its provisions by each of them in accordance with its area of jurisdiction.

6. By its letters 6446 of 12 October 2001 and 6523 of 23 October 2001, the General People's Committee agreed that the country should become a party to all of the conventions on the suppression of terrorism on completion of the legislative procedures relating to ratification or accession with the submission of the

conventions to the Basic People's Congresses and that the measures necessary for their implementation should be taken.

7. In October 2001, the General People's Committee for Foreign Liaison and International Cooperation transmitted a letter from the Leader of the Revolution to the Secretary-General of the United Nations conveying the resolve of the Libyan Arab Jamahiriya to accede to all the conventions and other instruments relating to terrorism to which it was not yet a party as soon as the legislative procedures for this purpose had been completed.

8. By its letter 8627 of 19 November 2001, the General People's Committee agreed that the country should sign or accede to the Comprehensive Nuclear-Test-Ban Treaty and the Chemical Weapons Convention and referred the instruments to the secretariat of the General People's Congress for transmittal to the Basic People's Congresses for the completion of accession procedures.

9. The Secretary of the General People's Committee for Foreign Liaison and International Cooperation signed several conventions relating to terrorism at the event held in New York from 9 to 15 November 2001 in conjunction with the fifty-sixth session of the General Assembly. They were the International Convention for the Suppression of the Financing of Terrorism; the Comprehensive Nuclear-Test-Ban Treaty; and the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, its Protocol against the Smuggling of Migrants by Land, Sea and Air, and its Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

10. At its request, the Security Council Committee established pursuant to resolution 1373 (2001) was provided with the name of the contact point designated by the Libyan Arab Jamahiriya in order to facilitate contacts with the country by the Committee or by States wishing to obtain information and assistance with regard to the matters addressed in the relevant resolution. The contact point is the International Organizations Department of the General People's Committee for Foreign Liaison and International Cooperation.

II. Measures relating to the implementation of Security Council resolution 1373 (2001)

Paragraphs 1 (a), (b), (c) and (d) of the resolution: measures to suppress the financing of terrorist acts; the criminalization and punishment of wilful participation in the financing of such acts; legislation and procedures for the freezing of funds; and measures to prohibit nationals from making funds available

The Libyan Arab Jamahiriya imposes systematic controls on banking activities and restrictions on the movement of funds (foreign currency) into and out of the country. This prevents any activities relating to the financing of terrorism and the direct or indirect participation of Libyan nationals or entities in Libyan territory in such activities. The controls and restrictions include those outlined hereunder.

By law, the Central Bank of Libya has the authority to examine the books and records of any bank at any times and at its own premises. Such examinations are carried out by inspectors appointed by the Governor of the Central Bank for this purpose.

A bank operating in the Libyan Arab Jamahiriya is required by the provisions of Law No. 1 of 1993, on banks, currency and credit, to draw up and retain statements relating to its financial position showing details of all the facilities or guarantees it provides and to submit them to the Central Bank of Libya on a periodic basis or on demand.

It is forbidden to deal in foreign currency, to transfer currency to or from the country or to transfer promissory notes denominated in a foreign currency other than on the terms and in the circumstances stipulated by the Board of Management of the Central Bank of Libya and through the banks and other entities duly licensed to do so.

A non-resident of the Libyan Arab Jamahiriya or the agents of a non-resident are forbidden to deal in Libyan currency or to transfer or sell Libyan securities and bonds or related coupons other than on the terms and in the circumstances stipulated by the Board of Management of the Central Bank of Libya and through the banks and other entities duly licensed to do so.

It is forbidden, under any circumstances, to use a licensed foreign-currency transfer for any purpose other than that for which it is designated.

It is forbidden to export and import Libyan currency and to export foreign currency, bonds and securities and related coupons denominated in any currency whatever, cash, and gold and silver bullion other than on the terms established by the Board of Management of the Central Bank of Libya.

The competent customs officials exercise the powers assigned to them under the Customs Code with regard to bank notes and other items whose importation or exportation is prohibited.

The banks and other entities licensed to deal in foreign currency must submit to the Central Bank of Libya, at the times it shall designate, a statement of the foreign currency they have purchased, of the transfers they have effected in accordance with the provisions of the law and of the foreign-currency deposits on hand as well as any other statements sought by it.

Although no money-laundering activities have been detected at Libyan banks, a draft law is currently being formulated by the Central Bank of Libya to counter and prevent money-laundering and trafficking in illegal funds and to detect and punish offenders.

These controls and restrictions all help to facilitate the task of exposing criminal transactions and identifying the persons involved in them and thus help to prevent them from taking place. As part of the procedures followed when illegal funding such as the financing of illegal organizations is detected, the activity is halted by the Libyan judicial authorities as one of the control measures necessary if offenders are to be prosecuted their property confiscated. The assets and accounts of all those proved to have been involved in criminal acts are frozen by order of the office of the public prosecutor or of the court, as the case may be. The laws regulating property in Libya stipulate that ownership is established only if it is

demonstrated to be legitimate. Property for which the possessor is unable to demonstrate legitimate ownership is thus illegal. Article 6 of Law No. 10/1423, concerning endorsements, provides that all funds or commissions that a person obtains by exploiting his position or status or by engaging in a prohibited activity are to be regarded as unlawful gain. It also provides that funds are illegal if their source is unknown or if the circumstances in which they are acquired are not consistent with a person's lawful resources. The law allows the court to issue an order for the sequestration of the funds of a person suspected or convicted of a criminal offence. Needless to say, terrorist offences are in the forefront of those with regard to which Libyan law has established these procedures and measures.

Despite the fact that Libyan legislation has yet to criminalize "terrorist acts" in the manner that has become customary at the international level, such acts are no different from the "criminal activities" penalized by Libyan criminal laws under other designations. This includes criminal activities relating to the direct or indirect provision or collection of funds to be used or intended to be used in "terrorist acts". Such activities are prohibited by law and are serious crimes, so that the judicial authorities may take the measures necessary to prevent them and may freeze any funds associated with them or take possession of them, prevent their use or even confiscate them.

In implementation of the provisions of the International Convention for the Suppression of the Financing of Terrorism, which it signed in New York on 13 November 2001, the Libyan Arab Jamahiriya will take the measures it deems appropriate and will enact supplementary legislation in keeping with the obligations imposed by the Convention and by the resolutions adopted by the Security Council in this regard, most recently its resolution 1373 (2001).

Paragraph 2 (a) of the resolution: legislation and measures in place to give effect to the requirement to refrain from providing support to those involved in terrorist acts, including the recruitment of terrorist groups and the supply of weapons to terrorists

Article 168 of the Libyan penal code makes it a criminal offence to enlist recruits or to engage in any acts of aggression against foreign countries. The provision is of a broad and general character, inasmuch as it covers any and all hostile activities against other States. There can be no doubt that terrorist acts and the supply of weapons to terrorists are in the forefront of such activities. Under article 100 of the penal code, to provide a criminal with a weapon is to be an accessory to the crime and is punishable by imprisonment for a term, life imprisonment or even the death penalty if there are aggravating circumstances.

In addition to the foregoing, the Great Jamahiriya is party to many international, regional and bilateral agreements for the prevention and suppression of terrorism. It has thus far signed, ratified or acceded to some 35 treaties, conventions and protocols, and it is committed to implementing all of the undertakings they impose. Under article 3 of the Convention of the Organization of the Islamic Conference on Combating International Terrorism (the OIC convention), article 3 of the Arab Convention for the Suppression of Terrorism (the LAS convention) and article 4 of the Organization of African Unity Convention on the Prevention and Combating of Terrorism (the OAU convention), Libya undertakes: not to engage in, attempt or participate in any way whatever in the organization,

financing or commission of terrorist acts or to incite the commission of terrorist acts or support them directly or indirectly; and to prevent its territory from being used for the planning, organization or perpetration of terrorist offences by, inter alia, preventing the illicit entry, sheltering or sojourn of terrorist elements or by receiving, sheltering, training, arming or financing them or by providing them with facilities.

Paragraph 2 (b) of the resolution: other steps being taken to prevent the commission of terrorist acts and, in particular, the early-warning mechanisms that exist to allow exchange of information with other States

The Libyan Arab Jamahiriya has signed or acceded to many international, regional and bilateral instruments, details of which will be given subsequently. Most of them provide for the exchange of information on threats to the security and safety of the parties, on international trafficking networks and the activities and crimes of hostile terrorist groups and organizations prejudicial to the security and stability of States, and on new offences and methods and the means to detect and counter them. Parties also undertake to provide each other with any information they have on any criminal activities there have been or that are being planned in the territory of other parties or elsewhere. Examples are the security cooperation agreement between the Libyan Arab Jamahiriya and the Republic of Yemen, signed at Sana'a on 20 April 1998; the general principles of the security protocol between the Libyan Arab Jamahiriya and the Republic of the Sudan, signed on 24 December 1995; the joint memorandum on cooperation in the drug control field between the Great Jamahiriya and the Republic of the Sudan, signed on 4 February 1999; and the memorandum on cooperation in the drug control field between the Jamahiriya and Chad, signed in November 1997.

The Jamahiriya has been selected as a contact point for the exchange of information and for consultations between the members of the committee to monitor relations among the western Mediterranean States with regard to terrorism, the criminal police and migration. It participated in a discussion group on organized terrorist activities that was held in Rome on 9 October 2000 together with Algeria, France, Italy, Portugal, Spain and Tunisia. The participants agreed to continue to work systematically on measures to combat organized crime, and they expressed satisfaction at the measures that had yielded effective results in combating drug-related and other crimes. They reached a common understanding on standardizing methods of combating organized crime, to be embodied in bilateral agreements. Accordingly, an agreement was concluded between the Libyan Arab Jamahiriya and Italy on cooperation in combating terrorism, organized crime, illegal trafficking in narcotic drugs and psychotropic substances and illegal migration, to be added to similar agreements with Cyprus, Malta, Pakistan and Yemen.

As a party to the LAS, OIC and OAU conventions, the Libyan Arab Jamahiriya has undertaken to cooperate in the exchange of information on the activities and crimes of terrorist groups, on their leaders and members, on the places they are based and trained, on the methods and sources of their funding and their acquisition of weapons and on the communications and propaganda media they use. It has undertaken to provide any other State party, in an expeditious manner, with any information it might have on any terrorist crime committed in its territory that targets the interests or nationals of that State, or of other States parties, and any information that could prevent the occurrence of terrorist crimes in its territory or

against its nationals or residents or their interests. It has likewise undertaken to provide any other State party with any information in its possession that could facilitate the arrest of a person or persons suspected of committing, attempting or being an accessory to a terrorist crime against the interests of that State, whether through assistance, collusion or incitement, or that could lead to the seizure of any weapons, ammunition, explosives or funds used or intended for use in a terrorist crime.

Paragraph 2 (c) of the resolution: the denial of safe haven to those who finance, plan, support or commit terrorist acts or provide safe haven to terrorists

Under article 3 of the relevant LAS and OIC conventions and article 4 of the OAU convention, Libya, as a party to the conventions, undertakes to prevent the use of its territory as a base for planning, organizing, executing, attempting or taking part in terrorist crimes in any manner whatsoever by, inter alia, preventing terrorist elements from entering its territory illicitly or residing there, as individuals or as groups, and their reception, sheltering, training, arming or funding and the provision of facilities to them.

Libyan legislation also makes provision for deportation. Article 158 of the penal code, under the heading "Deportation of aliens from the territory of the State", stipulates that a judge must order the deportation of any alien sentenced to imprisonment for a term of 10 years or more. Aliens may also be deported in other circumstances stipulated in the law. Article 225 of the penal code provides for the deportation of an alien sentenced to deprivation of liberty for an offence that falls in the category of felonies and misdemeanours against the State. Article 16 of Law No. 6 of 1987, regulating the entry of aliens to Libya, their residence in the country and their departure therefrom, provides for the cancellation of a residence visa in the case where an alien is a threat to the internal or external security or integrity of the State or to its economy, or to public health or public morals, or where he is a burden on the State, or where he violates the terms on which his visa was granted, or where the reason for which he was granted the visa is no longer valid.

Paragraphs 2 (d), (e) and (f) of the resolution: existing legislation or procedures to prevent terrorists acting from Libya against other States or citizens; steps taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts; and provision of assistance in connection with criminal investigations and criminal proceedings relating to the financing or support of terrorist acts

As previously indicated, Libyan law prohibits hostile acts against other countries and punishes those who commit, in Libyan territory or elsewhere, any of the relevant crimes. These include the enlistment of recruits to act against a foreign State, the perpetration of acts of aggression against a foreign State, the financing of illegal organizations and attacks on heads of State and on the diplomatic representatives of foreign States. Libyan law also regards such acts as crimes whether they are committed in the country or elsewhere (article 5 of the penal code), and it is therefore implied that acts done from Libyan territory that cause harm to others are established as criminal offences.

Libya also complies fully with the undertakings required by the international, regional and bilateral agreements to which it is a party and which address all of the issues covered by paragraphs 2 (d), (e) and (f) of Security Council resolution 1373 (2001).

Paragraph 2 (g) of the resolution: measures and mechanisms in place to prevent the movement of terrorists, effective border controls, the issuance of identity papers and travel documents, and measures to prevent forgery or impersonation

In May 1996 the Libyan Arab Jamahiriya began to introduce a computerized system that includes a database of all suspicious elements in which all files are stored and classified so that personal data and other descriptive information relating to the activities and locations of such persons can be retrieved.

At a later stage, the Libyan Arab Jamahiriya began to establish a circulation system within the parent system so that photographs of persons being sought could be circulated to all branches of internal security within a few seconds.

In order to tighten controls on the constant arrival and departure of suspicious elements at border crossings, ports and airports, these facilities were connected with the circulation system (security system No. 1) and all of the files relating to all suspicious elements (whether wanted, convicted or under observation) were entered together with all related data and their photographs. Another important process is the entry in the system of all missing and stolen travel documents, since there is a possibility they could be used by terrorist elements.

Security system No. 2 came into use on 1 April 1999. It seeks to eliminate forgery entirely, given the ease with which all data relating to citizens can be retrieved in record time — a matter of seconds — through information linkages that makes all valid documents accessible to all users working at points of entry and exit. All search operations take place on a special transit screen using the number of the travel document or any other field selected by the user to facilitate the process of comparing the data stored in the device and the data entered in the travel document being used. Operation of the system began with the entry of all currently valid travel documents for which data were available at the passport office. All data were entered: photographs; personal data; the numbers of such documents as identity cards, family carnets, passports and driver's licences; security notices; and distinguishing physical features. All branches of the passport office were linked with the system so that its staff could enter travel documents issued after 1 April 1999 on a daily basis as a basic part of the process of issuing such documents.

As a party to the LAS convention, the Libyan Arab Jamahiriya has undertaken (article 3, section I, paragraphs 3 and 4):

> "To develop and strengthen systems for the detection of the movement, importation, exportation, stockpiling and use of weapons, munitions and explosives ... as well as procedures for monitoring their passage through customs and across borders in order to prevent their transfer from one Contracting State to another or to third-party States other than for lawful purposes;
>
> "To develop and strengthen systems concerned with surveillance procedures and the securing of borders and points of entry overland, by sea and by air in order to prevent illicit entry thereby."

After the adoption of Security Council resolution 1373 (2001), measures were taken with a view to raising performance standards at the border control points and preventing illegal movement into and out of the Jamahiriya in general. This was done by stepping up patrols, the constant monitoring of borders and the imposition of certain restrictions on travel by persons in the 15-to-30 age group as a precaution against their possible recruitment by terrorist bands, especially in the circumstances in which the world currently finds itself.

Paragraphs 3 (a), (b) and (c) of the resolution: steps taken to intensify and accelerate the exchange of operational information regarding movements of terrorists or terrorist networks, falsified documents, traffic in arms, explosives or sensitive materials, the use of communications technologies by terrorist groups and the threat posed by the possession of weapons of mass destruction; exchange of information in accordance with international and domestic law and cooperation in administrative and judicial matters to prevent the commission of terrorist acts; and action against perpetrators of such acts

With its accession to seven counter-terrorism conventions, its initiation of the process of ratifying or acceding to the other five of the 12 such conventions and its obligations under the LAS, OIC and OAU conventions, the Jamahiriya has undertaken:

> "To cooperate and coordinate action among Contracting States, particularly neighbouring countries suffering from similar or common terrorist offences" (article 3, section I, paragraph 2, of the LAS convention);

and

> "To establish, in each Contracting State, a database for the accumulation and analysis of information relating to terrorist elements, groups, movements and organizations and for the monitoring of developments with respect to the terrorist phenomenon and of successful experiences in counter-terrorism; and to keep such information up to date and make it available to the competent authorities of Contracting States ... " (article 3, section I, paragraph 8, of the LAS convention and the OIC convention).

It has made commitments to enhancing the exchange of information with States on the activities and crimes of terrorist groups; on their leaders and members; on the places they are based and trained; on the methods and sources of their funding and their acquisition of weapons; on the types of weapons, ammunition and explosives they use; on the communications and propaganda media they employ; on their mode of operation; on the movements of their leaders and members; and on the travel documents they use. The Jamahiriya will endeavour to provide each contracting State, in an expeditious manner, with any information it might have on any terrorist crime committed in its territory that targets the interests or nationals of that State. It has further undertaken to cooperate in the exchange of information with a view to combating terrorist crimes and to take the initiative in providing any other contracting State or States with any information in its possession that could facilitate the apprehension of terrorist elements or could lead to the seizure of any weapons, ammunition, explosives, equipment or funds used or intended for use in a terrorist crime. It has also undertaken to enhance cooperation with other States and to provide assistance in the investigation and apprehension of fugitives suspected or convicted of terrorist crimes.

Paragraphs 3 (d) and (e) of the resolution: conventions and protocols to which the Jamahiriya is a party, or which it has signed with a view to subsequent ratification, or in respect of which it is in the process of completing the accession procedures required by the laws in force

I. International counter-terrorism and extradition agreements to which the Jamahiriya is a party, which it has ratified or in respect of which it is in the process of completing accession procedures

A. International conventions to which the Jamahiriya has acceded or which it has ratified:

1. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979, to which the Jamahiriya acceded on 22 September 2000;

2. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997, to which the Jamahiriya acceded on 22 September 2000;

3. Convention on the Safety of United Nations and Associated Personnel, adopted by the General Assembly of the United Nations on 9 December 1994, to which the Jamahiriya acceded on 22 September 2000;

4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973, to which the Jamahiriya acceded on 22 September 2000;

5. International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly of the United Nations on 4 December 1989, to which the Jamahiriya acceded on 22 September 2000;

6. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980 and ratified by the Jamahiriya on 8 November 2000;

7. Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, to which the Jamahiriya acceded on 12 June 1972;

8. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, to which the Jamahiriya acceded on 12 October 1978;

9. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, to which the Jamahiriya acceded on 19 February 1974;

10. Treaty Banning Nuclear-Weapon Tests in the Atmosphere, in Outer Space and under Water (partial test-ban treaty), signed at Moscow on 5 August 1963 and ratified by the Jamahiriya on 15 July 1968;

11. Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, signed at

Moscow, London and Washington on 27 January 1967, to which the Jamahiriya acceded on 3 July 1968;

12. Treaty on the Non-Proliferation of Nuclear Weapons, signed at London, Moscow and Washington on 1 July 1968, to which the Jamahiriya acceded on 26 May 1975;

13. Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, adopted by the General Assembly of the United Nations on 7 December 1970 and signed at London, Moscow and Washington on 11 February 1971, to which the Jamahiriya acceded on 6 July 1990;

14. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, signed at London, Moscow and Washington on 10 April 1972, to which the Jamahiriya acceded on 18 January 1982;

15. Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, to which the Jamahiriya acceded on 29 December 1971.

B. International conventions referred to the Basic People's Congresses for a decision on ratification or accession:

1. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999 and signed by the Jamahiriya on 13 November 2001;

2. United Nations Convention against Transnational Organized Crime, adopted by the General Assembly of the United Nations on 15 November 2000 and signed by the Jamahiriya on 13 November 2001;

3. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted by the General Assembly of the United Nations on 15 November 2000 and signed by the Jamahiriya on 13 November 2001;

4. Protocol against the Smuggling of Migrants by Land, Sea and Air, adopted by the General Assembly of the United Nations on 15 November 2000 and signed by the Jamahiriya on 13 November 2001;

5. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, adopted by the General Assembly of the United Nations on 15 November 2000 and signed by the Jamahiriya on 13 November 2001;

6. Comprehensive Nuclear-Test-Ban Treaty, adopted by the General Assembly of the United Nations on 10 September 1996 and signed by the Jamahiriya on 13 November 2001;

7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

8. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;

9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;

10. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988;

11. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the General Assembly of the United Nations on 30 November 1992 and opened for signature in Paris on 13 January 1993.

II. Regional conventions to which Libya is a party

1. Organization of African Unity Convention on the Prevention and Combating of Terrorism, adopted at Algiers on 14 July 1999;

2. Convention of the Organization of the Islamic Conference on Combating International Terrorism, adopted at Ouagadougou on 1 July 1999;

3. Arab Convention for the Suppression of Terrorism, signed at Cairo on 22 April 1998;

4. Arab Convention on Judicial Cooperation, signed at Riyadh on 4 April 1983.

III. Bilateral agreements

1. Cooperation agreement with Italy to combat terrorism, organized crime, illicit traffic in narcotics and psychotropic substances and illegal migration, signed at Rome on 13 December 2000;

2. Cooperation agreement with Malta to combat trafficking in narcotic drugs and psychotropic substances and organized crime, signed at Valetta on 18 April 1995;

3. Extradition agreement with Turkey, signed at Ankara on 5 August 1985;

4. Extradition agreement with Pakistan, signed at Islamabad on 28 September 1996;

5. Extradition agreement with Cyprus, signed at Nicosia on 15 May 2001.

Paragraphs 3 (f) and (g): the legislation, procedures and mechanisms in place to ensure that asylum seekers have not been involved in terrorist activities; and the procedures in place to prevent the abuse of refugee status by terrorists

The Libyan laws in place require the granting of asylum to be approved by the highest authority in the Jamahiriya, the secretariat of the General People's Congress. Article 26 of Law No. 1 of 2001 provides that the secretariat of the General People's Congress has the power to approve the granting of political asylum and to determine the treatment to be accorded to political refugees. Certainly, the secretariat only grants this privilege after consulting with the competent security authority, the external security agency, which is assigned the task of monitoring aliens and scrutinizing the hostile activities and attitudes of foreign persons or entities inside and outside the country. The situation of the asylum seeker can thus be investigated

before asylum is granted and whoever is shown to have been involved in any terrorist activity is prevented from obtaining refugee status.

Although there are no specific stipulations in Libyan law to prevent the abuse of refugee status, the provisions of Libyan legislation in general preclude this. It is also established practice in Libya that whoever is granted the right of refuge is forbidden to engage in any political activity, let alone to commit offences or terrorist acts established in Libyan law as crimes for which deterrent penalties as severe as the death penalty are imposed.

Libyan legislation thus does not permit the abuse of political refugee status by terrorists, and whoever is suspected of having a connection with criminal activity is prosecuted in accordance with the law and subsequently deported from the territory of the State.

United Nations S/2001/1324

Security Council

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English
Original: French

Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Cook Islands, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-21769 (E) 240102 150302

Annex

[Original: English]

Letter dated 27 December 2001 from the Deputy Prime Minister and Minister for Foreign Affairs and Immigration of the Cook Islands addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

It is my pleasure to submit for the information and consideration of your Committee the report of the Cook Islands on measures it has taken to implement United Nations Security Council resolution 1373 (2001) as called for by the Council (see enclosure).

The Cook Islands has long supported efforts to promote international peace and security and my Government looks forward to cooperating closely with the international community in general and the United Nations in particular in the months ahead to combat the global threat of terrorism.

(*Signed*) Robert **Woonton**
Deputy Prime Minister and Minister for Foreign Affairs and Immigration

Enclosure

Report to the United Nations Security Council Counter-Terrorism Committee on counter-terrorism activities in the Cook Islands

1. INTRODUCTION

1.1 The Cook Islands comprises fifteen small islands (total land area approximately 240 square kilometres) scattered over nearly 2 million square kilometres of the Pacific Ocean (see maps 1 and 2).

1.2 The population of the Cook Islands is approximately 14,000, mainly ethnic Polynesians, of which about half live in small communities in the Outer Islands and half on the main island of Rarotonga.

1.3 The Cook Islands economy is based on tourism, marine resource development and agricultural production. In 2000, some 80,000 persons visited the Cook Islands, mainly from New Zealand, Australia, the United States, Canada and Europe. Most visitors remained on Rarotonga although some travelled to Aitutaki, the second largest island, and a few to the other islands of the Southern Group.

1.4 The main international port is on Rarotonga. The country is serviced by regular international air connections directly to the United States (Los Angeles), French Polynesia (Tahiti), New Zealand (Auckland) and Fiji (Nadi).

1.5 Rarotonga has a modern international telecommunications service, including e-mail facilities and access to the Internet. The Outer Islands telecommunications facilities are more modest, although most have facilities for phoning and faxing to other islands and internationally.

1.6 Between 1901 and 1965, the Cook Islands was a non-self-governing territory of New Zealand. That status ended with the entry into force of the Cook Islands Constitution on 4 August 1965, the result of an act of self-determination witnessed by the United Nations.[1]

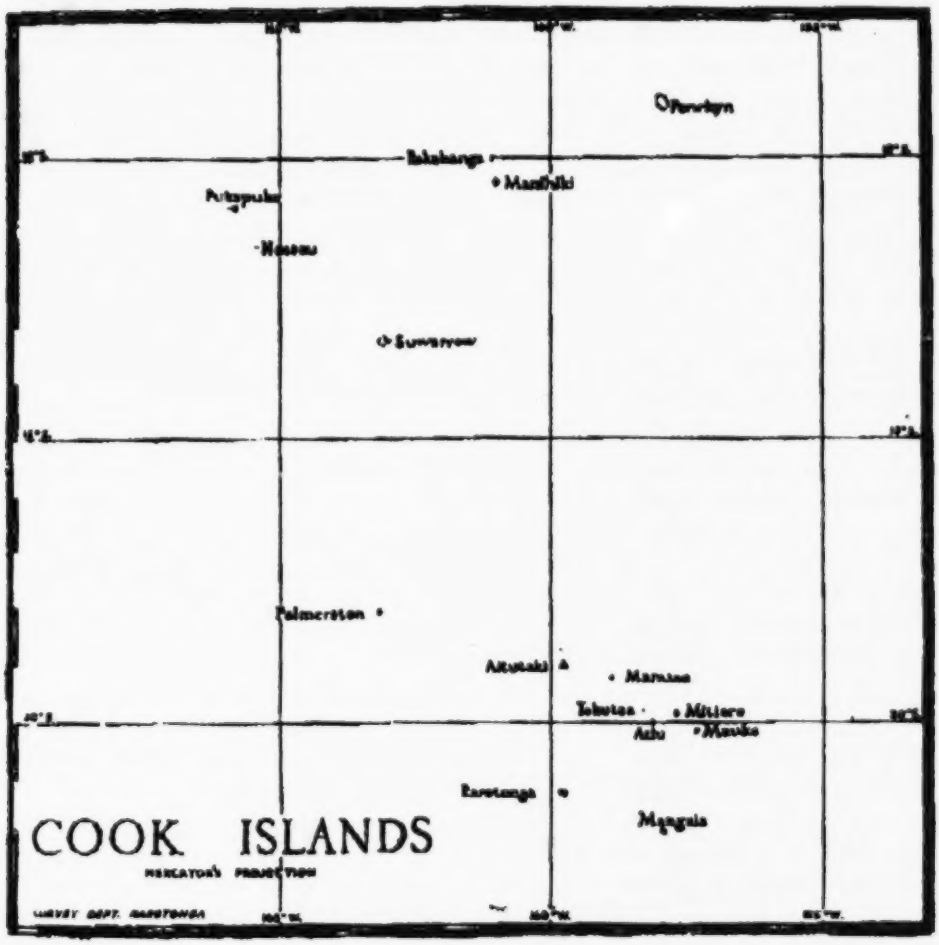
1.7 Today, the Cook Islands and New Zealand are in a relationship of free association as equal States independent in the conduct of their own affairs. In the conduct of its own foreign affairs, the Cook Islands interacts with the international community as a sovereign and independent State. Responsibility at international law rests with the Cook Islands in terms of its actions and the exercise of its international rights and fulfilment of its international obligations.

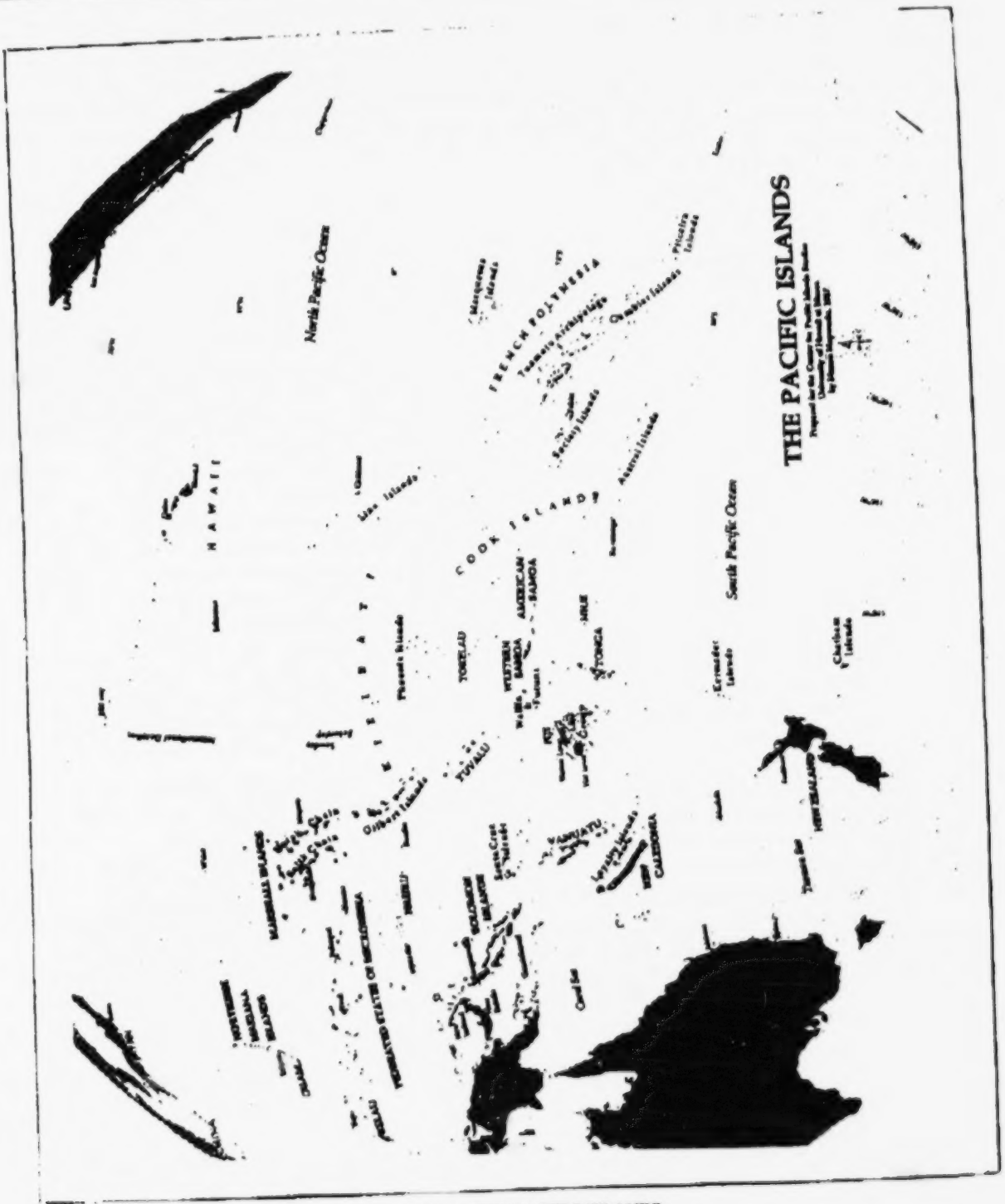
1.8 The Cook Islands is not yet a member of the United Nations. It is, however, a full member of a growing number of specialised agencies of the United Nations, including the Food and Agriculture Organisation (FAO), the International Civil Aviation Organisation (ICAO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the World Health Organisation (WHO).

1.9 The Cook Islands has taken careful note of United Nations Security Council (UNSC) Resolution 1373 (2001) dated 28 September 2001, including the Security Council's call for all States to report to the Committee established pursuant to that Resolution on the steps they have taken to implement that Resolution. The Cook Islands has long supported efforts to promote international peace and security. It is a party to several regional and global disarmament-related treaties and is currently participating in peace-monitoring efforts in the Pacific Islands region. It strongly supports the activities of the United Nations, especially the UNSC, to combat terrorism and is committed to playing a full role and co-operating with other members of the international community in those activities. Acting in the above spirit, the Government of the Cook Islands submits this report to the Security Council on activities it has undertaken to date and those it proposes to take to counter terrorism as called for in the above Resolution.

[1] This was the first act of self-determination observed by the United Nations in a non-self-governing territory other than a trust territory. See United Nations General Assembly Resolution 2064 (XX) dated 16 December 1965.

MAP 1: THE COOK ISLANDS
(Courtesy of the Survey Department, Rarotonga)





MAP 2: THE PACIFIC ISLANDS
(Courtesy of the Center for Pacific Islands Studies, University of Hawai'i)

2. TREATIES AND OTHER INTERNATIONAL ACTION

General

2.1 As indicated above, the Cook Islands is either a signatory or a party to multifarious treaties relating to international peace and security, including the Comprehensive Test Ban Treaty and the Chemical Weapons Convention.[2] Before 4 August 1965, a number of treaties to which New Zealand became party were applied by New Zealand to the Cook Islands. From 4 August 1965 until the mid-1980s, the Cook Islands participated in a wide range of treaties through New Zealand with which it is in free association. This participation was always with the Cook Islands' explicit consent and after consultation between the two Governments. The procedure of participating in treaties through New Zealand ceased by about 1985 as the Cook Islands increasingly concluded or participated in treaties in its own right. In 1988, the Government of New Zealand submitted to the United Nations Secretary-General for circulation to all Member States of the United Nations a document declaring that no treaty signed, ratified, accepted, approved or acceded to by New Zealand from the date of receipt of the Declaration by the Secretary-General would extend to the Cook Islands unless that treaty was signed, ratified, accepted, approved or acceded to expressly on the behalf of the Cook Islands.[3]

2.2 A number of the treaties to which the Cook Islands is bound through New Zealand relate to terrorism, as indicated below.

Multilateral Treaties

2.3 The Convention on Offences and Certain Other Acts Committed on Board Aircraft, (the Tokyo Convention) was concluded on 14 September 1963 and entered into force generally on 4 December 1969. New Zealand acceded to the Convention on 12 February 1974 and the Convention entered into force for New Zealand on 13 May 1974. By virtue of that accession, the Convention is binding on the Cook Islands through New Zealand as of 13 May 1974.

2.4 The Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague Convention) was concluded on 16 December 1970 and entered into force generally on 14 October 1971. New Zealand signed the Convention on 15 September 1971 and ratified same on 12 February 1974. The Convention entered into force for New Zealand on 14 March 1974. By virtue of that ratification, the Convention is binding on the Cook Islands through New Zealand as of 14 March 1974.

2.5 The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (the Montreal Convention) was concluded on 23 September 1971 and entered into force generally on 26 January 1973. New Zealand signed the Convention on 26 September 1972 and ratified the Convention on 12 February 1974. The Convention entered into force for New Zealand on 14 March 1974. By virtue of that ratification, the Convention is binding on the Cook Islands through New Zealand as of 14 March 1974.

2.6 The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, was concluded on 14 December 1973 and entered into force generally on 20 February 1977. New Zealand acceded to the Convention on 12 November 1985. The Convention entered into force for New Zealand on 12 December 1985. On depositing its Instrument of Accession, New Zealand indicated that the Convention would also apply to the Cook Islands. By virtue of New Zealand's accession, therefore, the Convention is binding on the Cook Islands through New Zealand as of 12 December 1985.

2.7 The International Convention against the Taking of Hostages was concluded on 17 December 1979 and entered into force generally on 3 June 1983. It was signed by New Zealand on 24 December 1980 and

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[2] The Cook Islands has signed both the CTBT and the Convention. Implementing legislation is currently being finalized, which will enable the Cook Islands to ratify the Treaty (see paragraph 3.1 below).

[3] UNGA LE 222, dated 10 November 1988. No such express notice has subsequently ever been given. Matters relating to possible succession by the Cook Islands to treaties to which it is bound through New Zealand are under consideration.

ratified by New Zealand on 12 November 1985. The Convention entered into force for New Zealand on 12 December 1985. On ratification, New Zealand declared the Convention applicable to the Cook Islands. By virtue of New Zealand's ratification, therefore, the Convention is binding on the Cook Islands through New Zealand as of 12 December 1985.

2.8 Following the 11 September terrorist attacks in the United States, the Cook Islands Government commenced a detailed examination of the several other major international instruments relating to terrorism with a view to determining their relevance to the Cook Islands and whether the Cook Islands should become a party thereto. Examination of the International Convention for the Suppression of the Financing of Terrorism has now been completed. Adopted by the United Nations General Assembly (UNGA) on 9 December 1999, the Convention will enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations (Art. 26(2)). The Cook Islands signed the Convention on 24 December 2001. It will ratify the Convention when the necessary domestic implementing legislation is in place.[4]

2.9 The following terrorism-related treaties are currently being examined by the relevant agencies of the Cook Islands Government as a matter of high priority with a view to determining appropriate action on the part of the Government:

- International Convention for the Suppression of Terrorist Bombings, adopted by Resolution A/RES/52/164 of the UNGA on 15 December 1997;
- Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted at Rome on 10 March 1988;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted at Montreal on 1 March 1991;
- Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979; and
- Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, concluded at Rome on 10 March 1988.

2.10 The Cook Islands is not a party to the 1951 Convention relating to the Status of Refugees. However, at the invitation of the Swiss Federal Council and the United Nations High Commissioner for Refugees, the Cook Islands was represented in an Observer capacity by its Deputy Prime Minister and Minister of Foreign Affairs and Immigration at the first formal meeting of States Parties to the 1951 Convention and/or to its 1967 Protocol which was held in Geneva, Switzerland, on 12-13 December 2001. Given the recent increase in refugee numbers, including those arriving in the Pacific region, consideration is now being given by the Government to becoming a party to the Convention and its Protocol.

2.11 The Cook Islands Government has also begun consideration of the United Nations Convention against Transnational Organised Crime and its three Protocols (Pro-tocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition), adopted by the UNGA in 2000 and 2001.

[4] See paragraphs 3.1 and 3.10 below.

Bilateral Treaties

2.12 There are a large number of bilateral extradition treaties to which New Zealand is bound as a successor State to the United Kingdom which were applied to the Cook Islands during the period in which the Cook Islands was a non-self-governing territory of New Zealand. They include those with the following States:

- Albania (22 July 1926);
- Argentina (22 May 1889);
- Austria (3 December 1873);
- Belgium (29 October 1901);
- Bolivia (22 February 1892);
- Brazil (13 November 1872);
- Chile (26 January 1897);
- Colombia (27 October 1888);
- Cuba (3 October 1904);
- Czechoslovakia (11 November 1924);
- Denmark (31 March 1873);
- Ecuador (20 September 1880);
- El Salvador (23 June 1881);
- Estonia (18 November 1925);
- Finland (30 May 1924);
- France (14 August 1876);
- Germany (14 May 1872);
- Greece (24 September 1910);
- Guatemala (4 July 1885);
- Haiti (7 December 1874);
- Honduras (6 January 1874);
- Hungary (3 December 1873);
- Iceland (31 March 1873);
- Iraq (2 May 1932);
- Italy (5 February 1873);
- Latvia (16 July 1924);
- Liberia (16 December 1892);
- Lithuania (18 May 1926);
- Luxembourg (24 November 1880);
- Mexico (7 September 1886);
- Monaco (17 December 1891);
- Netherlands (16 September 1898);
- Nicaragua (19 April 1905);
- Norway (26 June 1873);
- Panama (25 August 1906);
- Paraguay (12 September 1908);
- Peru (26 January 1904);
- Poland (11 January 1932);
- Portugal (17 October 1892);
- Romania (21 March 1893);
- Russian Federation (24 November 1886);
- San Marino (16 October 1899);

- Spain (4 June 1874);
- Sweden (26 June 1873);
- Switzerland (26 November 1880);
- Thailand (4 March 1911);
- Uruguay (26 March 1884); and
- Yugoslavia (6 December 1900).

2.13 On 12 January 1970, New Zealand and the United States concluded, in Washington, D.C., a treaty on extradition between the two countries. The Treaty entered into force on 8 December 1970. Acting by and with the advice and consent of the Executive Council of New Zealand, New Zealand's Governor-General made an Order on 30 November 1970 applying New Zealand's Extradition Act 1965 to the United States in respect of the Treaty. At the same time, at the request and with the consent of the Government of the Cook Islands made and given in accordance with the Cook Islands Constitution, the Order entered into force in the Cook Islands subject to Section 349A of the Cook Islands Act 1915.[5] Section 349A provides that, unless the context otherwise requires, any reference in the 1965 Act to New Zealand, New Zealand ministers, officials and the New Zealand courts and judiciary shall be read as a reference to the Cook Islands, Cook Islands ministers, officials and the courts established and the judiciary appointed pursuant to legislation in force in the Cook Islands.

International Co-operation

2.14 Over recent decades, the Cook Islands has come to play an increasingly active role in international affairs, particularly in its own region. In 1971, for example, it was a founding member of what is today known as the Pacific Islands Forum, the senior institution for political, legal and other co-operation in the region. The Forum today comprises the Governments of Australia, the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Over the last decade, the Forum has focussed considerable attention on regional co-operation in law enforcement and regional security.

2.15 At their annual meeting in 1992, held in Honiara, Solomon Islands, Forum Heads of State and Government adopted the Honiara Declaration on Law Enforcement Co-operation. In that Declaration, Forum Leaders (including the Prime Minister of the Cook Islands):

- reiterated their concern about the possible threat to the region from criminal activities;
- observed that an adverse law enforcement environment could threaten the sovereignty, security and economic integrity of Forum members;
- agreed on the need for a more comprehensive, integrated and collaborative approach to counter these threats;
- noted the need for legislation to cover such issues as extradition, proceeds of crime (assets forfeiture), mutual criminal assistance and other aspects of economic crime;
- noted also the important work being carried out on specialist aspects of law enforcement by other regional bodies (see below); and
- directed the Forum Regional Security Committee (FRSC) of officials to meet annually to review and advise on programme priorities, institutional linkages, and resource needs in the area of law enforcement co-operation and information exchange on regional and international security issues.

[5] The Cook Islands Act 1915 was enacted by the New Zealand Parliament to make better provision with respect to the government and laws of the Cook Islands. Entering into force on 11 October 1915, it covered such diverse subjects as the executive government of the Cook Islands, the judiciary, criminal procedure, land law, marriage, divorce etc. It was retained in force by the Cook Islands Government after 4 August 1965 although over subsequent years many of its provisions have been repealed and replaced by specific Acts of the Cook Islands Parliament (e.g. the Crimes Act 1969 repealed the criminal provisions of the Cook Islands Act 1915).

2.16 Of particular relevance to present concerns, in the above Declaration Forum Leaders recognised terrorism as a threat to the political and economic security of the region, and noted the various international conventions in the field. Leaders identified areas of possible co-operation amongst Forum Governments, particularly in intelligence gathering, training of personnel and joint exercises in dealing with serious incidents. While recognising the primary role of other networks, particularly police, in addressing this area, Forum Leaders agreed that programmes of the Forum Secretariat, particularly in the civil aviation area, should continue to take account of terrorism concerns.

2.17 At their annual meeting in 1997, held in the Cook Islands, Forum Heads of State and Government adopted the Aitutaki Declaration on Regional Security Co-operation. In their Declaration, Forum Leaders (again including the Cook Islands Prime Minister, who chaired the meeting), inter alia,

- reaffirmed their commitment to take a comprehensive, integrated and collaborative approach to maintaining and strengthening current mechanisms for co-operation among members in dealing with threats to the security, broadly defined, of States in the region and of the region as a whole;
- noted that the most immediately risks to security in the region hinged on regional and domestic developments, including natural disasters, transnational crime, including drug trafficking, and economic, social and environmental policies;
- expressed concern about the vulnerability of member countries to external threats to their sovereignty;
- acknowledged that security challenges could arise with little warning, and the region needed to be able to respond quickly to them;
- indicated that Forum members would give effect to their shared commitment to peace and security by engaging in practical forms of co-operation in accordance with this Declaration and international law; and
- agreed that the work of the FRSC be strengthened through the addition of a second session to their annual meetings for consultations on broader security issues.

2.18 Since 1992, the Cook Islands has played an active role in the FRSC which meets pursuant to the directives of the Forum Leaders, especially as set out in the above Declarations, to review regional security matters, co-operation between regional specialised agencies (in particular, the Pacific Islands Law Officers Meeting (PILOM), the Oceania Customs Organisation (OCO) and the South Pacific Chiefs of Police Conference (SPCPC)) and make recommendations to Forum Leaders on initiatives that might be undertaken to promote and strengthen regional security. Among the issues considered at the June 2001 meeting of the FRSC was progress on a model law to control weapons movements throughout the region, assistance in the establishment of domestic financial intelligence units (FIUs) and in studying the feasibility of establishing a regional FIU,[6] the establishment of national combined law agency groups (CLAGs) to facilitate co-ordination in law enforcement,[7] possible actions that might be taken both nationally and regionally to fight electronic/cybercrime, and a presentation by a representative of the United Nations Drug Control Programme (UNDCP) on the United Nations Convention on Transnational Organised Crime and its Protocols.[8]

2.19 The next meeting of the FRSC is expected to be in about May 2002, during which counter-terrorism initiatives that have been and might be taken will no doubt feature prominently in the discussions as called for in the 1992 Honiara Declaration above, with appropriate recommendations going forth to the next meeting of Forum Leaders to be held in about August 2002.

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6 See paragraph 4.22 below.

7 See paragraph 4.2 below.

8 It was largely in response to that presentation that the Cook Islands Government is current giving detailed consideration to the Convention and its Protocols. See paragraph 2.11 above.

2.20 The Cook Islands Police Department is very active in the SPCPC. The Conference consists of 21 member countries and administrations, including all Forum members,[9] and American Samoa, French Polynesia and New Caledonia. Permanent observers to the Conference include the United States Federal Bureau of Investigation (FBI) and Drug Enforcement Agency (DEA) and the OCO. The Secretariat of the SPCPC is based in the New Zealand Police College and information is disseminated to all SPCPC members with relative ease.

2.21 The 30th SPCPC Conference was held in Apia, Samoa, in October 2001, its theme being 'Co-operation and Other Current Policing Issues'. A number of presentations were made on the theme, including on national action to give legislative effect to the Honiara Declaration and a demonstration of an Internet-based policing data base available to Pacific nations, which connects to the Interpol policing system. With the assistance of the Australian Federal Police, the Cook Islands Police looks forward to its early implementation. The Conference recommended to member governments the United Nations Convention against Transnational Organised Crime and its Protocols.[10] The Cook Islands will host the 2002 SPCPC Annual Conference and looks forward to further advancing the 'co-operation' theme.

2.22 The Cook Islands hosted the Fifth Pacific Immigration Directors Conference (PIDC) in Rarotonga in November 2001. The PIDC comprises all Forum members as well as the Governments of American Samoa, Commonwealth of the Northern Marianas, French Polynesia, Guam, New Caledonia, Norfolk Island and Wallis and Futuna. The Conference considered and agreed on courses of action to be taken at both the national and regional levels on numerous issues relevant to this report, including refugees, people smuggling and illegal activities within the region, the United Nations Convention against Transnational Organised Crime, UNSC Resolution 1373 (2001), procedures for establishing identity, training of immigration personnel, improved border management and information exchange. The Conference appointed a Working Group consisting of Australia, the Cook Islands, New Zealand, Papua New Guinea and Samoa to look into how best to counter people smuggling and illegal entries and to deal with refugees and asylum seekers in the region. The first meeting of the Working Group is scheduled for 7-8 February 2002 and will be held in Brisbane, Australia. The Cook Islands Secretary of Foreign Affairs and Immigration chaired the Conference meeting and will serve as PIDC Chairman until the Fifth Conference to be held in 2002.

2.23 For several years, under the overall direction of Forum Leaders, a team of officials from Forum member countries has been in regular consultation with the Governments of France, Japan and the United Kingdom regarding the safety of shipments of nuclear materials between Japan and Europe through the Pacific region. Since the terrorist attacks of 11 September, the Forum has sought further consultations with the above three Governments on those shipments, especially precautions being taken to protect those shipments from terrorist attacks. The Cook Islands International Legal Advisor has served as Chairman/Facilitator of the Forum team since its inception.

3. DOMESTIC LEGAL ACTION

3.1 It is standard practice in the Cook Islands for implementing legislation to be enacted by the Cook Islands Parliament to give domestic effect to treaties prior to the Cook Islands acceding to or ratifying treaties or, as hitherto had been the case, being bound to treaties through New Zealand. Accordingly, implementing legislation was enacted by the Cook Islands Parliament prior to the Cook Islands becoming bound to the above treaties. A brief summary of the relevant legislation follows.

3.2 The Aviation Offences Act 1973 was enacted by the Cook Islands Parliament to give effect to the provisions of the 1963 Tokyo Convention, the 1970 Hague Convention and the 1971 Montreal Convention[11] and

[9] See paragraph 2.14 above.
[10] See paragraph 2.11 above.
[11] See paragraphs 2.3-2.5 above.

matters incidental thereto. The Act entered into force on 17 January 1974. The main provisions of the Act relate to:

- hijacking (imprisonment for life);
- a description of offences in connection with hijacking;
- other offences relating to aircraft (e.g. assault which likely to endanger the safety of the aircraft) (imprisonment for a term not exceeding 14 years);
- offences under the Act being deemed to be included in extradition treaties;
- the surrender of offenders;
- taking firearms, explosives etc on to aircraft (imprisonment for a term not exceeding 5 years);
- search of passengers, baggage and cargo;
- powers of the aircraft commander; and
- delivery to Police of arrested persons.

3.3 Relevant to the above is the Civil Aviation Act 1985, enacted by the Cook Islands Parliament to make provision for the regulation and control of civil aviation in the Cook Islands and matters incidental thereto. The Act entered into force on 26 July 1985. Pursuant to Section 19 of the Act, in time of war, whether actual or imminent, or of national emergency, the Cook Islands Minister of Civil Aviation may, by Order, regulate or prohibit, either absolutely or subject to conditions as may be determined, the flight of all or any description of aircraft over the Cook Islands or any portion thereof. He may also take possession and use for the purposes of any armed forces any airport or any aircraft, machinery, plant, material, or thing found therein or thereon, or any aviation equipment elsewhere. Penalties to secure compliance with the above Order may not exceed a fine of NZ$2,000 or imprisonment for a term not exceeding one year, or both. It has not proven necessary to invoke this provision of the 1985 Act to date.

3.4 The Crimes (Internationally Protected Persons and Hostages) Act 1982 was enacted by the Cook Islands Parliament to give effect to the 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, and the 1979 Convention against the Taking of Hostages,[12] and matters relating thereto. The Act entered into force on 8 September 1982. The main provisions of the Act relate to:

- crimes against internationally protected persons, as follows:
    - rape (imprisonment for a term not exceeding 14 years);
    - attempt to commit rape (imprisonment for a term not exceeding 10 years);
    - murder (life imprisonment);
    - manslaughter (life imprisonment);
    - attempt to murder (imprisonment for a term not exceeding 14 years);
    - counselling or attempting to procure murder (imprisonment for a term not exceeding 10 years);
    - accessory after the fact to murder (imprisonment for a term not exceeding 7 years);
    - wounding with intent (imprisonment for a term not exceeding 14 years);
    - injuring with intent (imprisonment for a term not exceeding 10 years);
    - aggravated wounding or injury (imprisonment for a term not exceeding 14 years);
    - aggravated assault (imprisonment for a term not exceeding 3 years);
    - disabling (imprisonment for a term not exceeding 5 years);
    - discharging firearm or doing dangerous act with intent (imprisonment for a term not exceeding 14 years);
    - acid throwing (imprisonment for a term not exceeding 14 years);
    - poisoning with intent (imprisonment for a term not exceeding 14 years);
    - infecting with disease (imprisonment for a term not exceeding 14 years);
    - kidnapping (imprisonment for a term not exceeding 14 years);

[12] See paragraphs 2.6-2.7 above.

- crimes against premises or vehicles of such persons, as follows:
    - arson (imprisonment for a term not exceeding 14 years);
    - attempted arson (imprisonment for a term not exceeding 10 years);
    - damage to other property by fire or explosive (imprisonment for a term not exceeding 7 years);
    - attempting to damage property by fire or explosive (imprisonment for a term not exceeding 5 years);
    - wilful damage (imprisonment for a term not exceeding 14 years);
    - interfering with means of transport (imprisonment for a term not exceeding 7 years);
- threats against such persons (imprisonment for a term not exceeding 7 years);
- threats against premises or vehicles of such persons (imprisonment for a term not exceeding 3 years);
- hostage-taking (imprisonment for a term not exceeding 14 years);
- crimes defined in the Act being deemed to be included in extradition treaties;
- surrender of offenders; and
- restrictions on the surrender of offenders (e.g. where it appeared to the Cook Islands Minister of Justice or the Cook Islands High Court that the surrender of the person being sought was for the purpose of prosecuting or punishing him on account of his race etc).

3.5 The Entry, Residence and Departure Act 1971-72 was enacted by the Cook Islands Parliament to control the entry into, residence in and departure from the Cook Islands. The Act entered into force on 20 March 1972. Under the Act, Cook Islands Immigration Officers may prohibit the entry into the Cook Islands of any person who is not a Cook Islander, a Permanent Resident of the Cook Islands, someone entering the Cook Islands to carry out legitimate business or a bona fide visitor (i.e. a person who enters the Cook Islands for the purpose of holidaying or recreation or exploring business opportunities). Immigration Officers may also deport anyone found in the country illegally. Over the years, they have, in fact, deported individuals found to be in the country illegally (e.g. not as bona fide visitors).

3.6 As indicated above, the Cook Islands is not a party to the 1951 Refugee Convention. Nor have there ever been cases of persons applying for refugee status in the Cook Islands. There are no detailed provisions in the Entry, Residence and Departure Act 1971-72 setting out procedures to deal with refugees should there ever be such an application. The Act provides simply that the provisions of the Act regarding illegal entry into the Cook Islands shall not be applied where, on humanitarian grounds, the Principal Immigration Officer considers the circumstances as reasonably warranting that person's entry into the Cook Islands. Should there ever be an application lodged for refugee status, before granting such an application the Government of the Cook Islands would investigate all of the circumstances surrounding the application and act strictly in accordance with international law and respect for fundamental human rights.

3.7 Also relevant to terrorist offences are provisions of the Crimes Act 1969 enacted by the Cook Islands Parliament to provide a Criminal Code relating to offences, defences and procedures. It entered into force on 27 January 1970. Key provisions relating to offences relevant to terrorism include the following:

- Party to murder outside the Cook Islands (imprisonment for a term not exceeding 14 years);
- Party to any other crime outside the Cook Islands (imprisonment for a term not exceeding 7 years);
- Sabotage (imprisonment for a term not exceeding 10 years);
- Conspiracy to Murder (imprisonment for a term not exceeding 10 years);
- Endangering transport (imprisonment for a term not exceeding 14 years); and
- Kidnapping (imprisonment for a term not exceeding 14 years).[13]

3.8 As indicated above, the Cook Islands is not yet a member of the United Nations. It does not yet have a legal mechanism in force that would enable it quickly to give effect by way of Regulations to UNSC Resolutions, including Resolution 1373 (2001). The United Nations Act 1946, enacted by the New Zealand Parliament,

[13] See also offences and penalties listed in paragraph 3.4 above.

was applied by New Zealand to the Cook Islands during the period in which the Cook Islands was a non-self-governing territory of New Zealand. It remains in force as part of the laws of the Cook Islands. Under that Act, the New Zealand Governor-General may from time to time by Order in Council make all such regulations as may be necessary to give effect to decisions of the UNSC. However, the Governor-General no longer has any power to make such regulations in relation to the Cook Islands.[14] To overcome that obstacle, since 11 September a United Nations Bill has been drafted for submission to the Cook Islands Parliament early in 2002 that will enable the Queen's Representative in the Cook Islands to make regulations by Order in Executive Council to give domestic effect to UNSC Resolutions. As the title indicates, under the Cook Islands Constitution the Queen's Representative is the representative in the Cook Islands of Her Majesty Queen Elizabeth II, the Head of State of the Cook Islands.

3.9 Regulations are currently being finalised to give effect to UNSC 1373 (2001). They will be promulgated immediately upon the entry into force of the above United Nations Act 2002 and will make provision for:

- the definition of "specified entity" including:
  - every Al-Qaida entity;
  - the Taliban;
  - every Taliban entity;
  - Usama bin Laden;
- a prohibition on collecting or providing funds for specified entities;
- a prohibition on dealing with property owned or controlled by specified entities;
- a duty to report suspicions relating to property suspected to be possessed or controlled by specified entities;
- a prohibition on making property, or financial or other related services available to specified entities;
- a prohibition on recruiting persons as members of them;
- a prohibition on participating in specified entities;
- immunity from civil, criminal or disciplinary proceedings for those who give information or reports against specified entities; and
- penalty for breaches of the Regulations (in the case of an individual, imprisonment for a period not exceeding 12 months or to a fine not exceeding NZ$10,000; in the case of a company or other corporation, to a fine not exceeding NZ$100,000).[15]

3.10 For some time now, the Cook Islands Government has been in the process of drafting legislation to give effect to its commitments under the Honiara Declaration.[16] This process has been expedited since 11 September. As of the date of submission of this report, in addition to the United Nations Bill noted above, the Cook Islands has the following Bills in draft form ready to be submitted to Parliament at its first Session in 2002:

(a) Terrorism Suppression Bill – This Bill will enable the Cook Islands to give effect to the obligations which it would assume upon becoming a party to the 1997 International Convention for the Suppression of Terrorist Bombings[17] and upon ratifying the 1999 International Convention for the Suppression of the Financing of Terrorism.[18] This legislation will deal comprehensively with the

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14 Originally, Article 88 of the Cook Islands Constitution provided that the Governor-General of New Zealand might from time to time, by Order in Council made at the request and with the consent of the Government of the Cook Islands make regulations, not inconsistent with the Constitution, for the peace, order, and good government of the Cook Islands. Article 88 was repealed by the Constitution Amendment (No 9) Act 1980-81 of the Cook Islands Parliament, which entered into force on 5 June 1981.

15 See also following paragraph for a discussion of the relationship between the Regulations and the Terrorism Suppression Bill, especially in relation to penalties.

16 See paragraph 2.15 above.

17 See paragraph 2.9 above.

18 See paragraph 2.8 above.

issues of those two Conventions as well as the two UNSC resolutions on terrorism (1368 (2001) adopted on 12 September 2001 and 1373 (2001) adopted on 28 September 2001). It will enable stricter penalties to be imposed than those to be available in Regulations made under the above United Nations Act when adopted. Among key provisions of the Bill are those dealing with:

- the definition of 'terrorist act' as including, inter alia:
  - an act that occurred in a situation of armed conflict; and
  - the purpose of which, by it nature or context, is to intimidate a population, or compel a government or an international organisation to do or abstain from doing any act; and
  - that is intended to cause death or serious bodily injury to a civilian or other person not taking an active part in the hostilities; and
  - that is not excluded from the application of the above 1999 Convention by Article 3 of that Convention.
- the intention of the act being, in full or in part, to cause one or more of the outcomes specified (see below) and the use of threat of the act is, in full or in part,
  - to intimidate a population in any country; or
  - to compel a lawful government or an international organization, to do or abstain from doing any act – for the purpose of advancing an ideological, political or religious cause.
- the 'specified outcomes' referred above as being:
  - the death of or other serious harm to (for example, serious injury to or kidnapping of) 1 or more (other than a person carrying out the act) in any country;
  - a serious risk to the health or safety of a population in any country (other than to the health and safety of a person carrying out the act);
  - destruction of, or serious damage, to property of great value or importance or major economic loss or major environmental damage in any country;
  - serious interference with, or serious interruption to, an infrastructure facility in any country;
  - serious damage or serious disruption to the national economy of any country.
- prohibition of the provision or collection of funds intending that they may be used, or knowingly that they are to be used in full or in part by a specified entity (imprisonment for a term not exceeding 14 years);
- prohibition of dealing in property, knowing that the property is owned or controlled by a specified entity or derived or generated from any property of a specified entity (imprisonment for a term not exceeding 7 years);
- prohibition on making property or certain services available to a specified entity (imprisonment not exceeding 7 years);
- prohibition on the recruitment to and participation in specified groups (imprisonment not exceeding 14 years);
- the duty to report suspicions relating to property suspected to be possessed or control by specified entities (failure to do so makes a person liable to imprisonment for a period not exceeding 12 months); and
- immunity from civil, criminal or disciplinary proceedings for those who give information or report against specified entities.

The same matters to be addressed in the above Regulations to be made under the United Nations Act 2002 will also be addressed in the Terrorism Suppression Bill. The Bill will enable much greater penalties to be imposed for offences committed and, when the Bill enters into force as the Terrorism Suppression Act 2002 most if not all of the provisions of the Regulations will cease to have effect. The Bill is modeled on similar New Zealand legislation of the same name;

(b) Extradition Bill – In accordance with provisions of the Cook Islands Constitution then in force, the Extradition Act 1965, enacted by the New Zealand Parliament was applied by New Zealand to the

Cook Islands at the request and with the consent of the Government of the Cook Islands.[19] It entered into force on 6 October 1965 and remains in force as part of the laws of the Cook Islands. Under that Act, the New Zealand Governor-General may from time to time by Order in Council make all such regulations as may be necessary to give full effect to the provisions of the Act and for the due administration thereof.[20] However, as indicated above, the Governor-General of New Zealand no longer has any power to make Regulations applicable in the Cook Islands.[21] As a result and in order to up-date Cook Islands law concerning extradition matters, including in relation to extradition arrangements between the Cook Islands and New Zealand,[22] a new Extradition Bill has been drafted for consideration by Parliament. The new Extradition Act will enable the extradition of persons who commit serious crimes, including terrorism, in the requesting State and enable the Cook Islands to give effect to its obligations under the 1997 and 1999 Conventions referred to above. Other key provisions of the Bill include the following:

- The definition of an "extradition offence", i.e. –
  - it is an offence against the law of the requesting country for which the maximum penalty is death or imprisonment, or other deprivation of liberty, for period of not less than 12 months; and
  - the conduct that constitutes the offence, if committed in the Cook Islands, would constitute an offence (however described) in the Cook Islands for which the maximum penalty is death or imprisonment, or other deprivation of liberty, for a period not less than 12 months;
- Grounds for objecting to extradition (e.g. if there are substantial grounds for believing that surrender of the person is sought of the purpose of prosecuting or punishing the person because of his or her race, religion, nationality, political opinions, sex or status or for political offence in the requesting country);
- Extradition requests are made to the Cook Islands Attorney General who will consider the requests and, if he so decides, issue an authority to proceed with the extradition request;
- Procedures for addressing requests from:
  - Commonwealth countries – mostly countries in the Commonwealth;
  - South Pacific Countries – All South Pacific Countries;
  - Treaty Countries – Those which the Cook Islands has existing the treaties under the current Extradition Act;
  - Comity Countries – countries other than those above.
- Procedures for the issuing of arrest and provisional arrest warrant;
- Provision for the review of the Justice decision in relation to the extradition request; and
- Provisions for the extradition of persons to the Cook Islands.

(c) Mutual Assistance in Criminal Matters Bill – This Bill will enable the Cook Islands to fulfill its obligations under the Honiara Declaration and the 1997 and 1999 Conventions referred to above. The objectives of the Bill are to:

- regulate the provision by the Cook Islands of international assistance in criminal matters when a request is made by a foreign country for any of the following:

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19 As a result of Constitutional Amendment (No 9) Act 1980-81 (see footnote 14 above), the provision whereby Acts of the New Zealand Parliament may be extended to the Cook Islands upon the request and with the consent of the Cook Islands Government was repealed. It is no longer possible for the application of any New Zealand legislation to be extended to the Cook Islands.

20 See also in this regard paragraph 2.13 concerning the New Zealand-United States Treaty of Extradition.

21 See paragraph 3.8 above.

22 Extradition arrangements between the Cook Islands and New Zealand are currently set out in basic provisions of the Cook Islands Act 1915 [NZ] (see footnote 5 above). The provisions regarding extradition have not been substantively changed since 1915. There is no known case of individuals having between extradited between the two countries.

- the taking of evidence or the production of a document or other article, for a proceeding in the foreign country;
- the issue of a search warrant and seizure of anything relevant to a proceeding or investigation in the foreign country;
- the forfeiture or confiscation of property for the commission of a serious offence against the law of the foreign country;
- the restraining of dealings in property that may be forfeited because of the commissions of a serious offence against the law of the foreign country;

- facilitate the Cook Islands providing international assistance in criminal matters when a request is made by a foreign country to make arrangements for a person who is in the Cook islands to travel to the foreign country:
  - to give evidence in a proceeding; or
  - to give assistance for an investigation; and
- facilitate the Cook Islands obtaining similar international assistance in criminal matters;

(d) Proceeds of Crimes Bill – This Bill is also part of the Cook Islands package of legislation to give effect to its obligations under the Honiara Declaration and the 1999 Convention referred to above. The objectives of the Bill are to:

- deprive persons of the proceeds of, and benefits derived from, the commission of serious offences;
- provide for the forfeiture of property used in, in connection with, or for facilitating, the commission of serious offences;[23] and
- enable law enforcement authorities to trace such proceeds, benefits and property.

3.11 The Cook Islands Government has benefited from assistance and advice from the Office of the Attorney-General of the Australian Government and the International Monetary Fund in the drafting of the Mutual Assistance in Criminal Matters Bill and Proceeds of Crimes Bill. The New Zealand Government has provided drafting assistance and advice with respect to the drafting of the above and other relevant legislation.

3.12 The Cook Islands Arms Ordinance 1954 came into force in the Cook Islands on 3 September 1954. It makes provision for the better control of arms and explosives in the Cook Islands. Section 4 prohibits the bringing into or causing to be brought into or sent into the Cook Islands any firearm (including pistols), ammunition, or explosives except in accordance with a permit issued by the High Commissioner or person appointed by him. Today the Commissioner of Police issues permits under the Cook Islands Arms Ordinance 1954. The importation of guns is permitted on a replacement only basis while Section 7 makes it an offence to possess an unregistered firearm. The Ordinance give powers of search of persons, land and buildings where firearms, ammunition and explosive are kept contrary to any permit issued. The current penalty for non-compliance is imprisonment not exceeding 3 months and fine not exceeding $100.

3.13 The Continental Shelf Act 1964 was enacted by the New Zealand Parliament to make provision as to the exploration and exploitation of the continental shelf of New Zealand and, by application) the Cook Islands and for matters connected for that purpose. It applies to the Cook Islands by virtue of section 9 of the Act.

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23 The Bill would allow an authorized officer to, inter alia, seize and detain any currency that is being imported into or exported from the Cook Islands if:
(a) the amount is not less than $1,000.00 (or a higher amount prescribed by regulation for this paragraph): and
(b) there are reasonable grounds for suspecting that it is:
(i) property derived from a serious offence;
(ii) intended by any person for use in the commission of a serious offence.
The Bill would include as a serious offence a terrorist act or an attempt to commit a terrorist act.

The Act came into force on the 3 November 1964. Of possible relevance to criminal jurisdiction over fixed platforms on the continental shelf,[24] Section 7 of the Act declares, inter alia:

- Every act or omission which takes place on or under or above or about any installation or device (whether permanent or temporary) constructed, erected, placed or used in, on or above the continental shelf in connection with the exploration of the continental shelf of the exploration of its natural resources shall be deemed to take place in the Cook Islands.
- Every such installation or device shall be deemed to be situated in the Cook Islands and for the purpose of jurisdiction shall be deemed to be situated in that part of the Cook Islands above the high water mark at ordinary spring tides which is nearest to that installation or device.
- Every Court in the Cook Islands which would have jurisdiction (whether civil or criminal) in respect of that act or omission if it had taken place in the Cook Islands shall have jurisdiction accordingly.

There has been no cause to invoke the provisions of this Act to date.

4. SUPPORTING ACTIONS

4.1 Under the overall direction of the Cook Islands Prime Minister and Deputy Prime Minister and Minister of Foreign Affairs and Immigration, a Government Counter-Terrorism Committee has been established to co-ordinate the Cook Islands counter-terrorism activities. The core members of that Committee are drawn from the following agencies of Government:

- the Crown Law Office;
- the Ministry of Foreign Affairs and Immigration;
- the Office of the Commissioner of Offshore Financial Services; and
- the Police Department.

4.2 The Cook Islands also adopted the Combined Law Agency Group (CLAG) concept in November 2001. The agencies involved in its initial stages include the Police Department (chair), Customs, Aviation Security, Immigration, Agriculture, the Fire Department and the Office of the Commissioner of Offshore Financial Services. The concept works on the understanding that member agencies play an equal part and information is shared confidentially. It is hoped that the CLAG will be fully operational in the first four months of 2002.

4.3 Police, Customs, Immigration and Offshore Financial Services authorities have been provided with the following lists of those persons and entities identified by the UNSC Committee established pursuant to Resolution 1267 (1999):

- UN document AFG/131; SC/7028, dated 8 March 2001;
- UN document AFG/150; SC/7166, dated 8 October 2001;
- UN document SC/7180 dated 18 October 2001;
- UN document SC/7181, dated 18 October 2001; and
- UN document SC/7206, dated 9 November 2001.

4.4 The Cook Islands Police Department has been and continues to work closely with regional law enforcement agencies such as the South Pacific Islands Criminal Intelligence Network (SPICIN, based in Pagopago, American Samoa), the New Zealand Police Interpol (based in Wellington, New Zealand), the Australian Federal Police Interpol (based in Canberra, Australia) and the United States FBI. Co-operation includes the exchange of information, following up and assisting with international investigations and assisting with the extradition of wanted nationals where an extradition treaty exists.[25]

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[24] See paragraph 2.9 above.

[25] To date, no formal extradition request involving the Cook Islands has ever been made.

4.5 In response to the terrorist attacks of 11 September 2001, the Police Department substantially increasing its strength at the Rarotonga International Airport, the Cook Islands primary port of entry, from the previous complement of two officers up to 16 officers. In particular, the physical search of every United States-bound flight (twice weekly) was introduced following those attacks and remains the practice. Operation 'Blindman' was commenced on 11 September at the Airport, its main objective being the gathering of information and/or evidence which may be of use to foreign law enforcement agencies, including the FBI in the United States.

4.6 Liaison with the FBI has increased after 11 September. Activities have included a personal meeting between the Cook Islands Police Commissioner and the FBI Legal Attaché, based in Canberra, Australia, during the above SPCPC Conference in October[26] and the exchange of much useful, confidential information. Suspect lists and anthrax procedures were also discussed. An Anthrax Committee has since been established in the Cook Islands, chaired by the Police and including the Cook Islands Fire Service, the Customs Department, the Ministry of Health and the Postal Service. The FBI together with the New Zealand Police have contributed to the now established 'standard operational procedures' for the Anthrax Committee.

4.7 There are about 7,000 Cook Islanders resident on Rarotonga, with about an equal number scattered throughout the Outer Islands. All Cook Islanders live in small villages in close proximity one to the other and, in most of the Outer Islands at least, all residents have known each other for generations. Any attempt to conduct any of the activities identified in UNSC Resolution 1373 (2001), such as recruiting terrorists, would be immediately known throughout the community. Police on Rarotonga and in the Outer Islands have all been briefed on the activities identified in that Resolution and instructed to report any unusual behaviour.

4.8 The Police Department also held briefing sessions with members of the tourism industry and requested that Police be informed of any person, persons or groups who may arrive in their respective premises and behave out of the norm. Hotels and motels were similarly informed. The successful nature of this consultation between the Police and the Cook Islands public was recently demonstrated with the arrest just before submission of this Report, of an African national, probably either from South Africa or Nigeria, on serious fraud and other dishonesty offences.

4.9 The Police Department will act immediately against any individuals or entities identified by the UNSC and listed in the documents above found to be in the Cook Islands.

4.10 The Police Department issues permits for the importation of a very small amount of ammunition (a few boxes a week, depending upon whether it is bat hunting season) and replacement guns, again primarily used for hunting birds and killing pigs. The presence of any large cache of weapons would be very difficult to hide in the Cook Islands. The Police are, however, maintaining a heightened lookout for weapons the concern of UNSC Resolution 1373 (2001).

4.11 The Police Department also has a close working relationship with the Pacific Islands Forum Secretariat, based in Suva, Fiji, which sponsored two training seminars for the Police, Customs and Audit Departments during 2001. Instructors were from the New Zealand Police and Customs. Both seminars lasted two weeks and covered two topics: 'Scene of Crime Investigations' and 'Fraud'.

4.12 During 2000-2001, three commissioned Cook Islands Police Officers attended Asia-Pacific Centre for Security Studies (APCSS) courses held in Hawaii. Each course lasted for sixteen weeks and was conducted by experts from the United States Government. It is hoped that another three officers will be able to attend APCSS courses in 2002.

[26] See paragraph 2.21 above.

4.13 Cook Islanders are New Zealand citizens. The Cook Islands Government does not issue passports or other travel documents. The main responsibilities of Cook Islands Immigration Officers relate to border control and the issuance of visas for those non-Cook Islanders and non-Permanent Residents to reside in the Cook Islands for longer than the 30 days allowed bona fide visitors.

4.14 There are approximately 450 non-Cook Islanders who are Permanent Residents of the Cook Islands, entitled to reside and work in the Cook Islands without a visa. Non-Cook Islanders may be accorded Permanent Residency after a minimum period of residency in the Cook Islands (three years) and after having undergone stringent security checks. Immigration Officers also consult with local community and other groups regarding the character of applicants. Many Permanent Residents are married to Cook Islanders and integrate closely into Cook Islands communities.

4.15 The Cook Islands has one major port of entry, Rarotonga. Almost all international visitors arrive in the country through the Rarotonga International Airport. At present, there are 10 international flights a week, all provided by Air New Zealand. Immigration Officers meet each flight and check the travel documents of all persons entering into and departing from the Cook Islands. Immigration Officers also meet all visiting yachts and inspect the travel documents of all entering the country through that means.

4.16 Certain other islands are also designated ports of entry (e.g. Pukapuka, population about 800). In fact, however, because of the isolation of those islands, no one has entered the country except through Rarotonga. Because of the small size of each island, anyone arriving in the Cook Islands through one of the Outer Islands would be immediately known to island residents and their presence communicated to authorities on Rarotonga.

4.17 Cook Islands Immigration authorities have long developed close working relationships with overseas immigration services, both regional and international. This includes the exchange of information of the movement of persons into and out of the Cook Islands and through the region. Immigration Officers have also been provided the lists of names of persons identified by the UNSC and will prevent the entry into the Cook Islands of any person listed.

4.18 Given the relatively significant increase in visitor arrivals into and departures from the Cook Islands over recent years, it is hoped that Cook Islands Immigration authorities will have soon have computer and related facilities available at primary checkpoints to assist in border control. At present, all checking of arrivals and departures is done manually.

4.19 Cook Islands Customs Officers also work closely with other national Customs authorities, both directly and through the OCO. This includes the timely exchange of information relevant to UNSC Resolution 1373 (2001). Firearms and ammunition have long been restricted imports in the Cook Islands[27] and Customs authorities are continually on the lookout for those and other prohibited items. Having been provided with the list of individuals and entities identified by the UNSC, Customs authorities will work with other law enforcement agencies should they identify activities of those individuals and entities on the list.

4.20 Immediately following the terrorist attacks of 11 September 2001, the Office of the Commissioner of Offshore Financial Services met with all sectors of the Offshore Finance industry to seek their co-operation against the financing of terrorism. The list of individuals and entities identified by the UNSC has been circulated to all industry firms working in the Cook Islands, including the two commercial banks (Westpac and the Australia and New Zealand Banking Corporation), for their reference. All firms working in the industry have pledged their full co-operation. To date, none have reported any financial transactions through the Cook Islands involving any of the individuals or entities listed. All firms have indicated that they will inform the Commissioner should any attempt at such financial transactions be attempted.

[27] See paragraph 3.12 above.

4.21 The Office of the Commissioner of Offshore Financial Services has also worked closely with the Cook Islands Crown Law Office in the drafting of the above legislation against the financing of terrorism.[28]

4.22 The Cook Islands Government has decided to establish a domestic Financial Intelligence Unit (FIU) and technical assistance from the Legal Department of the International Monetary Fund (IMF) has been sought to towards that end. The goal of the technical assistance will be to assist the Cook Islands and other regional participating countries to create a regulatory and operational environment hostile to financial crime and money laundering by co-ordinating the acquisition and dissemination of financial intelligence both among the participating countries and between those countries and other jurisdictions.

4.23 The local branch of Western Union has also been provided with the above lists. It has pledged its full co-operation in informing authorities should there be any attempt to transfer money either into or out of the country by any individual or entity listed.

4.24 UNSC Resolution 1373 (2001), especially operative paragraph 3(a), has also been brought to the attention of Telecom Cook Islands, the country's single telecommunications service provider, with the request that it informs the Police of any suspicious communications traffic or other related activity that it may encounter.

4.25 In response to a communication from the Chair of the Counter Terrorism Committee of the UNSC,[29] on 30 November 2001, the Cook Islands Government informed the Acting Secretary of the Committee of the Cook Islands contact point for matters relating to UNSC Resolution 1373 (2001), i.e.

Secretary of Foreign Affairs and Immigration
Ministry of Foreign Affairs and Immigration
P O Box 105
Rarotonga, Cook Islands
Phone (682) 29-347
Fax (682) 21-247
E-mail: secfa@ foraffairs.gov.ck

[28] See paragraph 3.10 above.
[29] SCA/20/01/30.

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Security Council

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Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Azerbaijan, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-21990 (E) 080302 150302

Annex

[Original: English]

Letter dated 27 December 2001 from the Chargé d'affaires of the Permanent Mission of Azerbaijan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit herewith a report from the Republic of Azerbaijan to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Yashar **Aliyev**
Chargé d'affaires

Enclosure

[Original: Russian]

Report to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

Azerbaijan

In light of the events of 11 September, the war on terrorism has been given centre stage in efforts to guarantee not only national but also the entire system of international security. The Government of the Republic of Azerbaijan continues to fully support the international community's efforts in that regard, unequivocally condemning terrorism in all its forms and manifestations, irrespective of its political, economic, religious or other motives. However, the war on terrorism should not be used to target any particular religion or culture.

As terrorism increasingly acquires the proportions of a global threat, it becomes imperative for the international community to join forces to meet the challenge by adopting a unified approach, not merely by pursuing individual States' interests. Azerbaijan is of the view that international counter-terrorism efforts over the long term should target not so much individual terrorist organizations, groups and individuals but rather the root causes of terrorism. Terrorist acts — a form of politically motivated extremism — all share one characteristic, namely the use of violence for political ends.

Terrorism is closely related to aggressive separatism, organized crime and trafficking in drugs, weapons and human beings. Areas of armed conflict, especially in occupied and uncontrolled territories, constitute fertile soil for terrorist and criminal groupings to flourish.

The absence of a clear definition of terrorism in international law merely hampers the efforts of the international community in bringing not only individual terrorists and organizations to account, but also States that promote, support or finance terrorist activities. Moreover, the vagueness of legal formulations opens the way for a potential increase in criminal activities.

Azerbaijan has itself fallen victim to terrorism. Since the late 1980s, when Armenia openly encroached upon the territory of Azerbaijan and began its military activities in the Nagorny Karabakh area of the Republic of Azerbaijan, Armenian terrorists have repeatedly committed terrorist acts in the territory of Azerbaijan. Terrorism in Armenia has been raised to the status of State policy. Certain Armenian terrorists who have been condemned in other countries for their criminal activities are currently members of the Armenian political elite, and their nationalistic cult ("Fighters for the national idea") enjoys the fullest support within official political circles and political parties. On more than one occasion, Azerbaijan has submitted specific details of Armenian terrorist activities to the United Nations (A/C.6/50/4 and A/C.6/51/5), drawing the international community's attention to these facts and urging it to take concrete action. Regrettably, Azerbaijan's appeals went unheeded at the time.

Legal basis for combating terrorism

The legislation of the Republic of Azerbaijan in the field of counter-terrorism has been brought into line with international legal instruments and is currently being further refined. The most significant domestic legal standard in this field is the Counter-Terrorism Act of the Republic of Azerbaijan of 18 June 1999. A decree promulgating the act was issued on 30 August 1999.

The Counter-Terrorism Act establishes the legal and institutional groundwork for counter-terrorism efforts in Azerbaijan, coordinates the action of State agencies engaged in counter-terrorism and sets out the rights and duties of such agencies and of citizens. *Article 1* of the act establishes the following key definitions:

- **"Terrorism"** means the commission of or threat to commit activities intended to cause massive loss of life, injuries to persons or other harm to their health, or destruction of (or damage to) their property or other serious consequences with the aim of undermining public security, spreading panic among the population or forcing State authorities to take decisions that comply with the demands of the terrorists.
- **"Terrorist"** means a person who takes part in any form of terrorist activity.
- **"Terrorist group"** means an association of two or more persons whose aim is to carry out terrorist activities.
- **"Terrorist organization"** means an organization that either is established for the purposes of carrying out terrorist activities or does not exclude the possible use of terrorism in its activities. If any of its subdivisions engages in terrorist activities with the approval of one of the organization's steering bodies, then the organization is considered a terrorist organization.
- **"Counter-terrorism"** means activities involving the detection or prevention of terrorist activities, or efforts to minimize the damage that may be caused by a terrorist act.
- **"Terrorist activity"** means an activity involving the organization, planning, preparation or commission of terrorist acts; violence against physical or juridical persons with the aim of creating terror by destroying or damaging physical installations; the establishment of illegal armed factions or criminal groups with the aim of carrying out terrorist acts, as well as participation in such acts; incitement of persons to terrorism; the arming, training or use of such persons; and the deliberate provision of funding or other assistance to terrorist organizations or terrorist groups.
- **"International terrorist activity"** means any activity that is carried out by terrorists or terrorist organizations in the territories of several States, or is connected with a crime committed outside the territory of a given State that could harm the interests of several States by an individual against a citizen of any State in the territory of the State to which the said individual belongs, or of another State in the event that the terrorist and the victim of the terrorism are citizens of the same or of different States.

In addition, the article defines **"counter-terrorism operations"** and **"zones of counter-terrorism operations"**.

Criminal liability for terrorism is also provided for in *art. 214 on terrorism and art. 277 on attempts on the life of a State or public figure (terrorist act) of the Criminal Code of the Republic of Azerbaijan of 2000*. The offences enumerated in these articles constitute serious or very serious crimes depending on their nature and the degree of public danger which they entail.

Art. 214 of the Criminal Code of the Republic defines "terrorism" as the causing of an explosion or arson or the commission of other acts that endanger the lives of people, cause significant damage to property or other serious consequences, if such acts are committed with the aim of undermining public security, terrorizing people or pressuring the authorities to take decisions to comply with the perpetrator's demands, or threatening to commit these acts for such ends.

Pursuant to the *Criminal Code*, the author of such a crime is any physical person of sound mind who has attained the age of 14 years by the time of committing the crime. Persons who have committed or have participated in the commission of terrorist acts, wherever such acts may have been planned or committed, are brought to trial and sentenced in accordance with the law of the Republic of Azerbaijan, and, under treaties concluded by Azerbaijan with other States, may be extradited to a foreign State to stand trial or to serve their appointed sentence.

In accordance with *art. 12.3 of the Criminal Code*, foreign nationals and stateless persons who have committed crimes against peace or humanity or who have been involved in terrorism, the hijacking of an aircraft, the taking of hostages, attacks on persons or organizations enjoying international protection — or other crimes punishable in accordance with international agreements to which Azerbaijan is a party — are to be tried and punished, irrespective of the location of the crime. However, it should be noted that, in accordance with the note appended to *art. 214 of the Criminal Code*, criminal liability may be waived if a person who has participated in planning an act of terrorism gives timely warning to the authorities or who enables by some other means the prevention of the act in question, and providing that person has committed no other crime.

Art. 4 of the Counter-Terrorism Act defines the **basic principles of counter-terrorism**:

- Law enforcement;
- Inevitability of punishment for the commission of terrorist acts, pursuant to the legislation of Azerbaijan;
- Coordination of overt and covert counter-terrorism measures;
- Comprehensive use of judicial, political, socio-economic and organizational precautionary measures;
- Preferential protection of the rights of persons endangered as a result of a terrorist act;
- Independence in directing forces employed in the conduct of counter-terrorism operations;
- Minimal transparency with respect to identifying the personnel involved in counter-terrorism operations, and with respect to the technical means and tactics that may be employed to such ends.

In accordance with *art. 6 of the Counter-Terrorism Act*, State and local agencies — irrespective of the type of organization — as well as voluntary associations, public servants and citizens are obliged to render assistance to State bodies engaged in counter-terrorism. Such assistance may involve transmitting information or communications that could lead to the detection and forestalling of a terrorist act or to minimizing the destruction that might be caused by such an act. At the same time, in accordance with *art. 216 of the Criminal Code*, uttering a communication that is knowingly false concerning an act of terrorism is a punishable crime.

Chapter III of the Counter-Terrorism Act envisages compensation for damage resulting from terrorist acts, as well as judicial and social protection for persons engaged in counter-terrorism.

In addition to terrorism, the Criminal Code establishes the following types of crime:

- *"Hostage-taking" — art. 215*;
- *"Hijacking an aircraft, sea vessel or railway train" — art. 219*;
- *"Illegal manufacture of weapons" — art. 229*;
- *"Misappropriation or extortion of weapons, ammunition, explosive substances or explosive devices" — art. 232*;
- *"Establishment of military formations or groups that are not provided for in legislation" — art. 279*.

An organization active in the territory of the Republic of Azerbaijan (or its branch or mission) may — owing to its association with terrorist activities — be dissolved by a court order pursuant to legally established procedures in the Republic of Azerbaijan. In accordance with the legislation of the Republic, upon the dissolution of such an organization, its property is confiscated and becomes State property.

Pursuant to the *Act of the Republic of Azerbaijan on the Status of Refugees and Forcibly (Internally) Displaced Persons* of 8 July 1999, refugee status may not be granted to a person who, as established by international law, has committed a crime against peace, a war crime, a crime against mankind or humanity; a person who, prior to entering the territory of the Republic of Azerbaijan, has committed a serious crime of a non-political nature outside its borders; or a person found guilty of committing acts that are contrary to the purposes and principles of the United Nations.

In accordance with the *Act of the Republic of Azerbaijan on Grants* of 17 April 1998, agreements (decisions) concerning the provision of grants to foreign recipients by donors who are juridical or physical nationals of the Republic of Azerbaijan must be registered by the Cabinet of Ministers of the Republic.

In accordance with the *Act of the Republic of Azerbaijan on Non-Governmental Organizations (Voluntary Associations and Funds)* of 13 June 2000, the Ministry of Justice of the Republic is responsible for carrying out official registration of non-governmental organizations in accordance with the legislation of the Republic concerning the registration of juridical persons. A non-governmental

organization may acquire the status of a juridical person only through official registration.

Pursuant to the *Decision of the Cabinet of Ministers of the Republic of Azerbaijan on International Humanitarian Organizations and Their Missions in the Republic of Azerbaijan* of 2 November 1994, international humanitarian organizations and other foreign missions conducting charitable activities in the Republic must be registered by the Ministry of Justice in accordance with legally established procedures.

In accordance with the *Act of the Republic of Azerbaijan on Banks and Banking Activities in the Republic of Azerbaijan* of 14 June 1996, funds and other assets belonging to juridical and physical persons that are held by a credit organization may be frozen only following a court order and in accordance with legally established procedures. On being informed of the relevant order, the credit organization must immediately cease all current account and investment operations (in an amount equivalent to the sum being frozen). Confiscation of the funds or other assets held by the credit company is effected in accordance with the court ruling once it has force of law.

The Republic's strong desire to engage in counter-terrorism measures is evidenced by its adoption of an *Act on Accession to the International Convention for the Suppression of the Financing of Terrorism* of 1 October 2001. On 11 October 2001, the President of the Republic signed a *Legislative Decree on Adoption of the Act on Accession to the International Convention for the Suppression of the Financing of Terrorism*. In order to bring existing legislative acts into line with the International Convention for the Suppression of the Financing of Terrorism, pursuant to the above-mentioned presidential decree, the Ministry of Justice, the Office of the Public Prosecutor, the Ministry of State Security and the Ministry of Internal Affairs of the Republic of Azerbaijan have been engaged in the joint drafting of a bill to supplement and amend the Criminal Code of the Republic of Azerbaijan and the Counter-Terrorism Act of the Republic of Azerbaijan, and have submitted the bill to the relevant bodies for consideration.

Azerbaijan has acceded to 8 of the 12 international conventions on counter-terrorism and to nine European conventions relating to counter-terrorism (see annex). Moreover, Azerbaijan has acceded to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989 and the United Nations Convention against Transnational Organized Crime of 2000.

Executive measures

The law-enforcement agencies of the Republic are engaged in implementing all necessary measures to identify, arrest and prosecute persons suspected of organizing, financing, supporting or committing acts of international terrorism. To this end, efforts to combat international terrorism have been further intensified since 1996, including:

- Enhanced surveillance and protection of Azerbaijan's frontiers;
- Implementation of relevant measures to suppress the illegal immigration into Azerbaijan of foreign nationals and to effect the deportation within a specified time frame of illegally settled persons;

- Intensified oversight to ensure strict adherence to passport and registration procedures, and monitoring of aliens who are temporarily or permanently resident in Azerbaijan;
- Strengthened passport controls at frontier entry points;
- Operation of a computer-aided system for registering arrivals and departures.

A package of strict precautionary, intelligence and detection measures have been implemented to strengthen protection of vital installations, gas and oil pipelines, relevant reservoirs, terminals, communications, water resources, arms and ammunition depots, radioactive and toxic substances, airports, seaports, shipyards, wharves, embassies, international organizations and missions, foreign enterprises and religious institutions. A plan has been drafted for the implementation of supplementary measures for identifying and detecting members of international terrorist organizations or groupings engaged in transnational or inter-regional organized crime and persons closely associated with the latter, as well as persons likely to engage in criminal activities or religious extremism, and the relevant instructions for implementation of the plan have been transmitted to police agencies in the national territory.

At the same time, the Ministry of Internal Affairs and the Ministry of State Security have drafted a plan of joint measures to intensify efforts to combat terrorism, and relevant joint operations with security agencies are envisaged for the future.

Law-enforcement agencies in Azerbaijan are currently implementing intelligence and detection measures to identify, localize and arrest terrorist groups and persons, as well as precautionary measures to prevent any activities connected with terrorism, in accordance with Azerbaijani legislation.

The National Bank of the Azerbaijani Republic has issued instructions to all the Republic's banks requiring them to submit to it information concerning suspect transactions involving their clients' accounts. In addition, all the Republic's banks have been instructed to identify bank accounts belonging to persons involved in international terrorism. To date, no evidence of any such accounts has come to light.

Furthermore, the National Bank recommended that the Act of the Republic of Azerbaijan on Foreign-Currency Regulation of 21 October 1994 restricting the import into the territory of the Republic of foreign currency should be amended and supplemented in order to combat the circulation of funds from unknown or illicit sources.

Consequently, measures continue to be implemented to promote adoption by Azerbaijan's banking system of international principles defining overall arrangements for ensuring that the banking system is not used to legalize the funding of crime or ill-gotten proceeds, as well as the basic policies of banks in that domain.

Guided by the relevant United Nations Security Council resolutions and recommendations of the Ministry of Foreign Affairs of Azerbaijan, the State civil airline, Azerbaijan Airlines (*Azerbaijan Hava Yollari*), is in the process of implementing measures to strengthen control over the security of flights and the use of Azerbaijani airspace and airports. In addition, and pursuant to agreements concluded with *Lufthansa*, *Swissair*, *British Mediterranean Airways* and other

airlines concerning the realization of flights, the Civil Aviation Security Directorate is engaged in operations to identify persons attempting to use counterfeit documents for the purpose of transiting the territory of Azerbaijan.

Azerbaijan actively cooperates on a bilateral basis with many States to combat international terrorism. At the regional level, Azerbaijan participates in the work of the Commonwealth of Independent States (CIS) Anti-Terrorist Centre in the field of information and analysis. Close cooperation is also maintained between the law-enforcement agencies of the GUUAM (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova) Group of States.

Annex

International counter-terrorism conventions to which Azerbaijan is a party

1. Convention for the Suppression of Unlawful Seizure of Aircraft (1970)
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)
4. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988)
5. International Convention against the Taking of Hostages (1979)
6. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)
7. International Convention for the Suppression of Terrorist Bombings (1997)
8. International Convention for the Suppression of the Financing of Terrorism (1999)

European conventions to which Azerbaijan is a party

1. European Convention on Extradition (1957)
2. Additional Protocol to the European Convention on Extradition (1975)
3. Second Additional Protocol to the European Convention on Extradition (1978)
4. European Convention on Mutual Assistance in Criminal Matters (1959)
5. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (1978)
6. European Convention on the Transfer of Proceedings in Criminal Matters (1972)
7. European Convention on the Suppression of Terrorism (1977)
8. European Convention on the Compensation of the Victims of Violent Crimes (1983)
9. Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990)